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The State Board of Elections Board Meeting was held on Tuesday, May 22, 2013.

The meeting was held in the General Assembly Building, Room C, in Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Joshua Lief, Senior Assistant Attorney General and SBE Counsel; Justin Riemer, Deputy Secretary; Nikki Sheridan, Confidential Policy Advisor; Susan Lee, Elections Uniformity Manager; Chris Piper, Election Services Manager; Martha Brissette, SBE Policy Analyst; Eugene Burton, Voting Equipment Coordinator; and Matt Abell, Election Administration Lead. Chairman Judd called the meeting to order at 10:00AM.

The first order of business was the Secretary's Report delivered by Secretary Palmer. Secretary Palmer welcomed Scott Van Der Hyde who is a law student at William & Mary and will be interning with SBE this summer. Secretary Palmer reported that a primary will be held on June 11, 2013 and the Board would meet on June 25, 2013 to certify those results. In response to a question from Vice-Chair Bowers, Secretary Palmer reported that the Request for Information (RFI) had been submitted for the new photo identification bill. Secretary Palmer reported that the SBE team is preparing the community outreach and implementation plan in support of the new photo identification bill. Secretary Palmer reported that SBE staff is continuing to work on the online voter registration bill. In a response to a question from Chairman Judd, Secretary Palmer reported that updates occurring within the VERIS system would allow the general registrar to scan documents to store voter registration application. Secretary Palmer reported that this new feature should be available by late June 2013. Secretary Palmer reported that this change request was being funded in part by Fairfax County and that this change would allow the electronic storage of documents.

The second order of business was the Legal Report delivered by Joshua Lief, Senior Assistant Attorney General and SBE Counsel. Mr. Lief introduced Kate Maxwell who would be interning with the Attorney General's Office in support of SBE during this summer. Mr. Lief reported that he had received a decision on SBE's demurrer in the Fairfax County Democratic Party case. Mr. Lief reported that he is also continuing to work with SBE on the interstate crosscheck program. Mr. Lief reported that the Attorney

33 General's Office submitted the preclearance documents to the Department of Justice for
34 the bills signed by the Governor that will take effect in 2013 and is awaiting word on
35 their status.

36 The third order of business was the presentation of the resolution honoring the
37 work of Betty Weimer, retiring General Registrar of Prince William County. The Board
38 presented the resolution to Ms. Weimer and each Board member extended their sincere
39 thanks for her twenty-eight years of service to the election community. Chairman Judd
40 also noted the many years of service that Ms. Weimer contributed to the Voter
41 Registrars' Association of Virginia.

42 The next order of business was the Electoral Board request for temporary full-
43 time status for the Richmond County General Registrar. Deputy Riemer informed the
44 Board Members the Electoral Board submitted the required request in a timely manner.
45 Deputy Riemer noted the request is authorized under Chapter 890, 2012 Acts of
46 Assembly and recommended approval of the submitted request. Vice Chair Bowers
47 moved the Board to approve the request from the Electoral Board of the Richmond
48 County for the months of May and June 2013 and Secretary Palmer seconded the motion.
49 Chairman Judd asked if there were any questions. Robin Lind, Virginia Electoral Board
50 Association, stated that he was appreciative of the support SBE Board Members provide
51 by approving these requests. Chairman Judd asked if there were any comments and there
52 were none. The Board Members unanimously approved the motion.

53 The next order of business was the drawing of the ballot order for the Senate of
54 Virginia Special Election to be held on August 6, 2013. Matt Abell, Election
55 Administration Lead, explained the process. Vice Chair Bowers drew the first position of
56 the Democratic Party and Secretary Palmer drew the second position of Republican
57 Party. Chairman Judd declared that the ballot order had been determined with the
58 Democratic candidate listed first and the Republican candidate listed second.

59 The next order of business was the request for approval of the updated voter
60 registration application presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette
61 stated that on May 1, 2013, SBE staff issued an official communication to the Virginia
62 election community announcing that a draft form redesigning the current Virginia Voter
63 Registration Application was available for public comment through May 15, 2013. Ms.
64 Brissette stated that staff had received more than 50 comments and that those comments

65 had been provided to Board Members for review. Ms. Brissette stated that due to the
66 substantive comments, SBE staff recommended a working group be assembled to
67 consider the format and redesign of the voter registration application.

68 Ms. Brissette indicated that staff was proposing a short-term update to the current
69 application's Privacy Act Notice while the working group developed a more
70 comprehensive redesign of the voter registration application. SBE Board Members
71 reviewed the proposed Privacy Act Notice and responded with questions regarding the
72 reasons for the change and what should be the appropriate language. Ms. Brissette
73 explained the current requirements for disclosing voter registrations to third parties and
74 the process for redacting social security numbers, including a discussion of the original
75 consent decree that restricted access to the social security number on the application. Ms.
76 Brissette gave additional explanation regarding the proposed language in response to an
77 inquiry from Vice-Chair Bowers for additional clarification on what was being asked of
78 the Board. Mr. Lief then gave an explanation of the two interests involved with the issue,
79 namely the privacy advocates who do not want the social security numbers on the
80 applications and the groups seeking open access to the applications, including Project
81 Vote and that those two interests conflict. Both groups have sued. Mr. Lief explained the
82 original 1993 case and consent decree resulting in the Privacy Act Notice noting that the
83 social security number would not be open to the public. Then the court ruling in Project
84 Vote has resulted in the forms being open to the public subject to some restrictions. The
85 editing to the Privacy Act Notice is somewhat of an intersection of the agency's attempt
86 to create language that indicates that the registration application may be open to the
87 public inspection with the exception of the social security number. Mr. Lief then
88 suggested that changes to the current Privacy Act Language should be made to make
89 clear that the social security number will not be made publicly available and that he
90 looked forward to participating in the working group to balance the issues. Vice-Chair
91 Bowers thanked Mr. Lief and then inquired whether the Privacy Act Notice changes
92 would be done first and then having the working group deliberate on fixing the entire
93 application based on the comments received.

94 Secretary Palmer clarified that the working group would not be suggesting
95 changes to the Privacy Act Notice if the Board Members today approved the language of
96 a revised Privacy Act Notice. Secretary Palmer indicated that he hoped the Board would

97 be able to approve new Privacy Act Notice language at this meeting and asked Mr. Lief
98 for his opinion. Sec. Palmer indicated his desire to have something ready for July 1 and
99 the upcoming gubernatorial election cycle. Mr. Lief stated that he agreed with that
100 approach and that the current language is wrong. The Board members and Mr. Lief
101 discussed the suggested changes to the Privacy Act Statement language. After a thorough
102 discussion specifically regarding the provisions of the notice of what will be open for
103 inspection to the public with the removal of the social security number, Chairman Judd
104 stated that the Board was going to amend the registration form with the suggested
105 language tweak to the Privacy Act Notice. Chairman Judd asked for a motion. Secretary
106 Palmer moved that the Board amend the current Privacy Act Notice on the current voter
107 registration application form to be consistent with the consent decree in *Project Vote v.*
108 *Long* by removing the sentence: “This registration card will not be open to inspection by
109 the public” and replacing it with “This registration card will only be open to inspection
110 by the public if the social security number is removed.” and inserting “and all lawful
111 governmental purposes” after the words “by courts”. Vice Chair Bowers seconded the
112 motion and Chairman Judd asked if there was any discussion on the motion or any public
113 comments. Catherine Flanagan approached the podium to address the Board, stating that
114 she represented Project Vote. Ms. Flanagan stated that the general expectation is that the
115 voter registration application is open to the public with the social security number
116 removed. Ms. Flanagan said it would be more accurate to say that the registration card
117 will be open to the public; however, the social security number is removed. Chairman
118 Judd said that is what the Board said in its motion. Chairman Judd asked if there were
119 any other comments and there were none. The Board Members unanimously approved
120 the motion to revise the Privacy Act Notice on the voter registration application.

121 The next order of business was the request for approval of the updated absentee
122 ballot application presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette
123 referred the members of the Board to the materials dated May 21, 2013 which tracks the
124 suggested changes to the absentee ballot application. Ms. Brissette stated that on May 1,
125 2013, SBE staff issued an official communication announcing that a draft form
126 redesigning the current Virginia Absentee Ballot Application was available for public
127 comment through May 15, 2013. Ms. Brissette stated that staff received about 45
128 comments and incorporated many of those comments into the new design. Ms. Brissette

129 acknowledged the work of Joe Baker, the SBE Website Developer, who prepared the
130 format of absentee ballot application for Board approval. Ms. Brissette explained the
131 changes to the absentee ballot application including changes to the reason portion of the
132 application required by legislative changes, edits and additions to the instructions,
133 formatting changes, including the optional use of color printing by the general registrars
134 and the localities.

135 Chairman Judd made an inquiry regarding the provision in the application that
136 asks for the year of birth and if that would impact the ability of someone to be of age
137 when requesting an application. Ms. Brissette replied that you have to be registered to
138 vote to receive an absentee ballot. Deputy Riemer stated that the current application only
139 asks for the year of birth so that this is not a change from the existing application. The
140 Chairman noted that he thought it was in the previous application and Mr. Riemer
141 clarified that the full date was in the original revised draft presented to the Board but not
142 on the form in its current incarnation. Chairman Judd asked if the form was available on
143 the website and Ms. Brissette responded that was available for voters on the website.

144 Vice-Chair Bowers inquired if the instruction page should come before the actual
145 form rather than the other way around. Vice Chair Bowers suggested it may be easier for
146 the voter to have the voter see the instructions prior to filling out the form. Chairman
147 Judd indicated that you still have to look at the reasons on the back of the form when
148 completing the application. Secretary Palmer stated he understood the Vice-Chair's point
149 and indicated that the working group discussed the issue and there seemed to be
150 consensus that it would be friendlier to the office personnel if it is on the same page.
151 Chairman Judd then asked a question regarding the address form and suggested having
152 the addresses on the back of the actual application form. Absentee Ballot Coordinator
153 Terry Wagoner noted that the application is designed to accommodate both in-person
154 absentee voting and absentee voting by mail and the current design facilitates both since
155 only pages 3 and 4 are needed for in-person while the whole application will be mailed to
156 voters completing absentee applications by mail. Vice Chair Bowers then suggested
157 adding an instruction to the front of the absentee ballot application to "please flip over for
158 instructions," as well as a reference within the instructions to the list of general registrars'
159 addresses. Ms. Wagoner referred the suggestion to Joe Baker, SBE's form designer, as to
160 whether that suggestion could be incorporated into the document. Deputy Riemer then

161 commented for clarification that he believed Vice-Chair Bowers wanted the instructions
162 page to come in sequence before the actual application form. Vice-Chair Bowers said that
163 there should at least to have a note to the instructions on the opposite page. Ms. Wagoner
164 said that could be incorporated into the design. Secretary Palmer indicated that adding a
165 sentence at the top should be easy to do. Chairman Judd pointed out the reference to the
166 instructions next to the reason codes and questioned if that should be moved to top. Vice-
167 Chair Bowers said at a minimum move to the top. Deputy Riemer suggested to also leave
168 the reference to the instructions in the reason code section.

169 Chairman Judd then recognized Mr. Lief who said he had a few questions on the
170 form and on process. Mr. Lief said that we are implementing a law that changes to the
171 Codes and that any approval of the form should be subject to preclearance. Mr. Lief also
172 advised that although identifying the religion was repealed, the amended statute still
173 requires stating the nature of the religious obligation. Chairman Judd said the form should
174 follow the bill as passed and agreed the form for Reason 5(A) related to this reason
175 should conform to the amended statute. Chairman Judd inquired on the preclearance
176 issues and if the Board was on a deadline having to be met to have the form revised. Ms.
177 Brissette responded that the requirement to implement the law is contingent on
178 preclearance. Chairman Judd asked if it made more sense to lay the application aside
179 until preclearance or to wait until the Supreme Court says preclearance is not required.
180 Mr. Lief stated that the Board could approve subject to preclearance and give staff the
181 time to get things into place. Secretary Palmer said that would be his recommendation to
182 simultaneously adopt the form and submit for preclearance to be ready by July 1 since
183 individuals requesting absentee ballots after July 1 should be using the new form. Mr.
184 Lief said to the extent the form just implements the law the form would not need
185 preclearance but indicated that there are other changes. Chairman Judd moved that the
186 Board should approve the usage of the new absentee ballot application form subject to
187 preclearance to the law that caused the change in the form. Vice Chair Bowers made the
188 motion. Chairman Judd noted there was a motion on the floor and if there was discussion.
189 Secretary Palmer noted that he believes the motion covered the changes that were made
190 staff understands what those changes are and that he seconds that motion. Chairman
191 Judd said there was motion on the form and inquired if there were any other questions.
192 Therese Martin, representing the League of Women Voters, approached the podium. Ms.

193 Martin inquired about the mailing instructions and where the application should be
194 mailed and, secondly, regarding the change of registration address or name on the form.
195 Ms. Martin further questioned if the absentee ballot application should be used for the
196 purposes of changing the voter's registration address or name. Chairman Judd said it
197 appeared this was a question and recognized Terry Wagoner, SBE Absentee Coordinator,
198 who stated that the absentee ballot application could be used to make changes to the
199 voter's address or name. Chairman Judd asked if there was a difference in this process for
200 the absentee application versus in-person and Ms. Wagoner indicated there was not any
201 difference. Chairman Judd inquired if there were any other questions and there were
202 none. The Board unanimously approved the motion.

203 The next order of business was the request for approval of updates to Guidelines
204 for Conducting Voter Registration Drive presented by Chris Piper, Election Services
205 Manager. Mr. Piper stated that the Voter Registration Drive Guidelines have been
206 reviewed to include the new statutory changes and requirements for SBE to provide
207 online voter registration drive training to groups and individuals who request 25 or more
208 voter registration applications from SBE or the local voter registration office. Additional
209 modifications made include a new affidavit and request form making note of the new
210 training requirements, changes to reflect online voter registration, changes indicating the
211 prohibition of pre-populating applications, changes to indicate that applications must be
212 delivered within 10 days (previously 15 days) of their collection, tweaks to emphasize
213 that applications held in violation of the 10 day period should still be delivered to a
214 registration office. Mr. Piper stated that suggestions from Project Vote and the League of
215 Women Voters were received that Monday and that some revisions to the Voter
216 Registration Drive Guidelines were made based on their comments. Mr. Piper indicated
217 that there are changes to the document from what was in the original Board packet and
218 that he would be happy to go through those changes. Chairman Judd requested that Mr.
219 Piper provide the Board the "from and to". Mr. Piper proceeded to review the suggested
220 changes.

221 Mr. Piper discussed that Project Vote's concerns were addressed in a five page
222 document. Suggested revisions on page 1 related to concerns that persons who did not
223 have internet access and the availability of training in the local registrar offices. Mr. Piper
224 said that issue was not reflected in page 1 but that a change was made on a bullet point to

225 page 17 that indicated the training materials would be made available at the general
226 registrar's office.

227 Mr. Piper explained recommended changes on page 3 that related to concerns on
228 putting the onus on the individual for conducting training for the other circulators of the
229 drives and staff modified the language to show that the individual taking the initial
230 training would sign on behalf of the organization. That would put the onus on the
231 organization as a whole rather than the individual. Chairman Judd stated that this was a
232 train the trainer type of training, Mr. Piper agreed it was and that the training being
233 developed is essentially that and will allow for others to conduct the training for others in
234 the organization.

235 Mr. Piper stated that Project Vote issued concerns regarding language that
236 indicated SBE has the authority to approve the person or the group and that a change was
237 made to the third bullet point on page 3 related to approval. Chairman Judd asked Mr.
238 Piper to clarify that the recommendation was to take away the requirement that SBE
239 approve the group or individual conducting the voter registration drive. Mr. Piper
240 clarified that what staff was stating was that the training be completed and once that is
241 completed SBE provides a certification but the statute does not say that SBE approves
242 these groups just that they have to complete the required training. Chairman Judd asked
243 Mr. Lief if that was this was within the letter of the Code that was passed. Mr. Lief asked
244 for a moment to review.

245 Mr. Piper referenced page 4, the Best Practices Overview, and concern that
246 indicated the document implied that all groups have to undergo the training requirement.
247 Mr. Piper stated that Project Vote had concerns that it mislead to indicate that all groups
248 need to complete the training. Mr. Piper said that he believed the language was very clear
249 that was not implied and that no change was made.

250 Mr. Piper said that concerns were brought up on #2 of page 4 that the online voter
251 registration language be changed to make clear that it was available to those with a
252 DMV-issued Driver's License or DMV ID card. Mr. Piper said that language was
253 tweaked to include that suggestion.

254 Mr. Piper said there was concern on paragraph 4 of page 2 on the bottom and that
255 SBE agreed that making clearer that listing a previous registration address is required but
256 that it does not result in the rejection of an application's registration application. Failure

257 to include citizenship status will result in rejection. Mr. Piper stated that changes were
258 made to state it was required to be included but that it does not state that it should be
259 rejected if not included. Chairman Judd said he was not sure if he was following what
260 was recommended. Chairman Judd reviewed the suggested change and Mr. Piper
261 explained that failure to include that information will not necessarily result in the
262 rejection of the application. Chairman Judd asked why it was in the original version if it
263 was not so. Chairman Judd asked if we were adhering to the Code as passed by the
264 General Assembly if we took that out. Mr. Riemer stated that there was not a uniformity
265 of practice throughout the Commonwealth on that. Mr. Riemer explained the applicant is
266 asked to provide that information on the last form of the registration application for the
267 purposes of sending that notice to the other jurisdiction. Mr. Riemer explained there were
268 various reasons why a voter does not include that information. Mr. Riemer said that the
269 Code is not entirely clear that the application should be rejected if that information is not
270 included. Some registrars will reject that application and some will not and there does not
271 appear to be any clear indication in the Code that mandates acceptance or mandates
272 rejection. The Code states it is required but does not say it will be rejected if it is not
273 included. Because of this point the language is reflected to state it is required but omits
274 reference that it will result in rejection. Mr. Riemer explained that it is an issue where
275 sometimes “shall” means it will be rejected and sometimes “shall” means you have to do
276 it but it is not going to disqualify the application. It seems to be a little unsettled and we
277 know that in the Commonwealth some will accept them and some will not. Chairman
278 Judd asked on what basis, “it is either the law or it is not the law?” Chairman Judd
279 recognized Mr. Lief. Mr. Lief said he was looking at the previous question that was
280 asked. On this issue it was a policy call for the Board.

281 Mr. Lief referenced the first question regarding “approval” of the groups. Mr. Lief
282 stated that the groups do not need to be approved.

283 Secretary Palmer stated that in our experience with this part of the Code in
284 ordinary course most judges would uphold this requirement and there is a mechanism in
285 place where you can go to court if your application is rejected. Some judges have
286 overruled the registrar on these issues and some judges have gone the other way.
287 Secretary Palmer said we get pushed both ways and that there was a lack of uniformity on

288 this issue and in the interest of being precise, this may be an policy we have to bring
289 before the Board.

290 Chairman Judd then recognized Mr. Piper who indicated he was moving to #3 on
291 page 10. Mr. Piper stated that staff added language that said completed applications
292 cannot be signed without signed permission from the organization and that part of the
293 regulation.

294 Next, page 11 # 8, writing on applications. Project Vote brought up concern
295 regarding a circulator wanting to initial the application to get credit for getting that
296 application completed and concern that the language be removed and after discussion
297 determined that would be proper. Chairman Judd asked why it would be proper and
298 quoted the language on the existing registration drive guidelines regarding not writing on
299 or attaching anything to the application. Chairman Judd asked if the suggestion was to
300 remove language away including the Code citation. Mr. Piper replied that after
301 reviewing it the Code had no such prohibition. The prohibition relates to what was
302 discussed on not changing or modifying the registration application and what information
303 was provided by the applicant. Chairman Judd asked for confirmation that the suggestion
304 was to remove the separation that maybe the spirit of the Code suggests the application
305 should be separate from any ballot issue, or candidate or whatever, so the suggestion was
306 to remove that by taking it out. Mr. Piper said there does not seem to be validity in the
307 Code for having that section; that there did not seem to be any reason why we would
308 have that. Mr. Piper said that the issue was brought to our attention and after having
309 reviewed the matter determined it should be in there. Secretary Palmer said that staff was
310 looking at the issue and were not sure of the genesis of this and that he thinks in common
311 practice, he understands the concerns and that we tried to address it by inserting the
312 provision in #8 to not allow the circulator to add any information to the application that
313 has been signed by the voter or to alter it in any way. Secretary Palmer said that he thinks
314 one of the concerns is that one of the things the Registrars and circulators do is to
315 organize the applications for the registrar and so there are some opportunities where the
316 circulator attaching something to the registration is helpful to the Registrar.

317 Secretary Palmer said that Justin Riemer, Chris Piper researched what the genesis
318 was but could not find a basis for it. Chairman Judd recognized Mr. Lief and said that he
319 agreed with Mr. Piper that there was nothing in § 24.2-418 that specifically prohibits this

320 but that the Code does prohibit someone from altering the writing on someone's
321 application but given what we've seen in the last year or so regarding some of the drives
322 and issues with that it, might be appropriate for someone to put something on top of them
323 noting problems and giving the registrars some guidance on the registrations. The Code
324 does not expressly provide for that but the concern that the language prohibits them. Mr.
325 Lief said that there is no problem saying they should not write on the application. Mr.
326 Lief said there would not be a problem saying "Do not write on the application."
327 Chairman Judd said he understood a post-it note on a stack or a sheet of legal paper paper
328 clipped to a stack but to take out also especially the material related to candidates or
329 ballot measures and that he would be more inclined to take out the checkmark to accept
330 taking out the checkmark that says "Do not attach anything to the registration
331 application" and citing the Code but leaving in: "Do not write on or attach anything to the
332 registration application, especially material related to materials related to candidates or
333 ballot measures." Mr. Lief inquired said that the Code did not prohibit the third party
334 registration group from doing something like attaching a note indicating there was no
335 social security number the registrar may want to follow up. Mr. Lief said do not write on
336 or attach anything on or related to the ballot measures or candidates only attach
337 something related to completeness of the form. Chairman Judd said he would tweak
338 number 8 to read: "Do not write on or attach anything to the voter registration application
339 or any material related to candidates or ballot measures." Chairman Judd inquired if that
340 would allow them to put the post it note on. Mr. Lief stated he would leave out: "attach
341 anything to the voter registration application related to candidates or ballot measures."
342 Mr. Lief said that would allow them to put a cover on it. Chairman Judd said he would
343 move to amend when there is a motion. Mr. Piper asked for clarification on the language
344 of #8: "Do not write on or attach anything to the voter registration application related to
345 candidates or ballot measures." Mr. Piper and the Chairman agreed that we would strike
346 the citation and checkmark.

347 Mr. Piper then moved on to the second bullet point on page 17 of the revised
348 materials. Mr. Piper explained that this issue was addressed previously in the meeting.
349 Staff recommended an update that clarified the training materials would be available at
350 the registrar's office.

351 Mr. Piper then moved to the second question under “Other Questions” regarding
352 the National Voter Registration Application (NVRA). Mr. Piper indicated that Project
353 Vote expressed concern that the existing language could leave individuals to believe that
354 the national registration application is not acceptable in Virginia. Mr. Piper said a
355 revision was made to the second sentence in the second bullet point to add that the
356 required information regarding the felon disqualification is in the long-form instructions.

357 Mr. Piper then moved to the availability of voter list section in page 17,
358 particularly the use of the word “maybe” regarding the availability of registered voter list.
359 Mr. Piper stated that we agreed with Project Vote that if a group was conducting a
360 registration drive, the case law was clear the list of registered voters was available. The
361 Chairman inquired as to the term “maybe” and if there were instances where the answer
362 to the question of obtaining a list of registered voters would be “no”. Mr. Piper said “no,”
363 the Code says the list can be purchased for groups for political purposes and for voter
364 registration activity. Mr. Piper said if one is there reading the document they will be
365 doing voter registration activity and would have availability to the list. Chairman Judd
366 indicated he understood.

367 Mr. Piper moved on to page 20 of the revised document and the sworn affidavit.
368 Mr. Piper said Project Vote brought up questions on the limit of the maximum number of
369 applications that could be procured. Mr. Piper stated that SBE set the maximum number
370 of 200 simply as a matter of resources and that’s why there is a maximum, and that’s why
371 it’s not going to change at this point in time. The second issue brought up on the
372 Affidavit was staff’s recommendation to strike “mark” on the third bullet point of number
373 2. Mr. Piper said that based on earlier conversation the Chairman may want to consider in
374 his motion to add that back in. Chairman Judd indicated “yes.” Mr. Piper indicated that
375 “number” was missing on the fourth bullet point in number two and that there was
376 additional language to make clear that the information from the registration application
377 would be available publicly. Mr. Piper also said that Project Vote suggested the deletion
378 of #5 regarding the return of unused applications to the office and that staff agreed that
379 there was no requirement to return unused applications.

380 Chairman Judd then brought up the first bullet point on number 2 and asked who
381 provided the receipt. Mr. Piper said the application provides a tear off receipt that anyone
382 with a registration should provide the receipt. The Chairman followed up to confirm it

383 was the circulator. Mr. Piper indicated, yes, for the circulator. Chairman Judd then
384 brought up the suggested change regarding the deletion of “or other personal
385 information” from the third bullet point in number 3. Mr. Judd inquired regarding what
386 the logic was behind scratching that information. Mr. Piper quoted from the Project Vote
387 comments that the line “suggests that other personal information, not just social security
388 numbers may not be revealed; however, the personal information other than the social
389 security number of all voters is not protected, except for applicants who check the box
390 applicable to protected voters.” Mr. Piper stated that this went back to the discussion
391 earlier on the Privacy Act Notice and the consent decree. Mr. Piper stated the language
392 makes clear that the personal information may be available to the public. Chairman Judd
393 asked Mr. Lief if that was consistent with the ruling. Mr. Lief stated it could be an
394 expansion of the ruling. Mr. Lief said that the application itself is a public record after
395 deposit with the registrar. Mr. Lief said this was an area somewhat outside of that
396 whether the registration group could copy this information. Chairman Judd said we took
397 it out because it was asked for by Project Vote. Mr. Piper said that we agreed in a
398 discussion yesterday that we could help make it clearer that the personal information
399 could be made public. Mr. Lief said that is correct; the registration document is a public
400 document once it is in the registrar’s office. Mr. Lief said this was a policy call but that
401 he would have to look at the issue closer. Mr. Lief said it was not covered in the Project
402 Vote case. Secretary Palmer asked if it was specifically prohibited by law. Mr. Lief said
403 he did not believe so. Secretary Palmer said it is not covered by Project Vote specifically
404 in the law regarding whether a registration group wants to write down the phone number
405 and address and whether there is a strict prohibition. Secretary Palmer said there are
406 things that address the margins of the issue but nothing that specifically addresses that
407 issue. Chairman Judd asked when this was drafted originally before Project Vote edited
408 this document what the language meant. Mr. Piper stated it related to making copies of
409 the applications before turning them in. Chairman Judd then made the distinction
410 between registrations before they are submitted to the registrar and after they are
411 submitted and that groups could copy and then not submit to the registrar. Mr. Riemer
412 stated that the original version of the document had been adopted by the Board and that
413 staff started receiving queries from the campaigns that were engaged in registered drives
414 and that there was a flat-out prohibition that said you can’t take any information from an

415 application and transcribe it with a piece of paper and that we got into the weeds on the
416 issue very in-depth with what the campaigns could in fact copy and that at the time it
417 seemed like we did not think we had a very good case to prohibit the transcription of that
418 information. Mr. Riemer stated we wanted to prohibit but the law was unclear. Mr.
419 Riemer stated that maybe we could not change it for now and look at it more in-depth but
420 we had already amended the document to remove some of that strict language. Mr. Lief
421 said that he did recall that issue. Mr. Lief said he did not believe there was a rule
422 prohibiting the copying of the information. Mr. Lief said that the way it was originally
423 framed in that it was required by the Project Vote ruling which it does not apply to but
424 that Virginia laws does not prohibit the copying of personal information. Mr. Lief said
425 that was what we told the campaigns and that is what the campaigns did and used that
426 information to contact the individuals. Secretary Palmer stated that during the
427 deliberations there was some other personal information, such as protected voters address
428 and that is technically covered and suggested adding that to the language to be more
429 precise. Sec. Palmer stated that he wanted the document to be on firm ground. Chairman
430 Judd asked about protected addresses. Chairman Judd said that what we were doing was
431 to dumb down the system yet again and asked how the organization would know whether
432 someone has a protected address, the general registrar knows but how would the
433 organization know and that he was worried we were opening a can of worms and that we
434 need to be very careful about that. Chairman Judd stated we have rules for a reason and
435 that human nature is to check the boundaries and that is what was being done now but
436 that we needed to be very very careful about making it so loose and so open and in the
437 effect it will have on those that do want to register.

438 Mr. Piper then moved on to the changes made to the checklist on page 22 of the
439 revised materials. Mr. Piper said there were some questions about the applicability
440 requirements of the checklist and Mr. Piper stated a change was made to indicate the
441 checklist was "recommended". The list is something we recommend and not require and
442 that staff covered their questions regarding the affidavit applicability requirements by
443 changing the title. Lastly, they discussed the distribution of the affidavit and that we
444 struck the last checkbox on the affidavit. Chairman Judd referenced the last check box
445 regarding the affidavit requirement and asked for confirmation that the suggestion was to
446 strike the language. Mr. Piper responded that the language in the checklist also referred to

447 the organization's volunteers and employees and that it would be incorrect to state that
448 the volunteers and/or employees were required to sign the affidavit and that is why it was
449 stricken. Chairman Judd said that the same argument applies to the other items on the
450 checklist. Chairman Judd stated that the same argument can be made that the other
451 members of the organization did not read the 17 pages or 20 pages nor have they
452 completed the sworn affidavit, nor have they prepared an alphabetical list of the
453 applications. Chairman Judd said he wasn't sure, he didn't understand why we were
454 taking the teeth out of this thing and we need it. The reason why you need guidelines is
455 because people are always checking boundaries and that you need boundaries.

456 Mr. Piper concluded by stating the comments from Project Vote. The League of
457 Woman Voters comments were similar. Mr. Piper said that staff felt strongly that we
458 covered every aspect of voter registration drives. Mr. Piper said the training being
459 developed will be very significant train the trainer and the material will be provided to
460 each person that requests applications. Chairman Judd stated his concern about making it
461 shorter and that staff did an excellent job of creating the one pager and that you have all
462 the meat behind it and he agrees you want to shorten it any more than that and that is
463 good. Chairman Judd said the Board was presented with the suggested changes of the
464 guidelines and asked for any discussion from the Board. Chairman Judd entertained a
465 motion. Vice-Chair Bowers moved to approve the revised and amended guidelines for the
466 voter registration drive packet before the Board with amended changes to include the
467 amendment of the Chair's recommendations earlier for items 8 on page 11, page 20, #2
468 bullet point 3 that refers to adding back in the word "mark" in regards to the voter
469 registration application form. Secretary Palmer seconded the motion. Chairman Judd
470 noted there was a motion on the floor and asked for comment from the floor.

471 Robin Lind spoke on behalf of the Goochland County Electoral Board. Mr. Lind
472 said some were confused on the issue of how registration applications were not treated
473 the uniformly throughout the state which he believes was the case. Mr. Lind said he
474 understood the counsel to state that there was no specific prohibition on sharing the
475 private information but he did not understand if that included the social security number
476 which he think was included in § 24.2-1002.1 where the Code states it is a felony to use
477 the social security number or any part thereof of any applicant except for official use.
478 Mr. Lind said he hoped the guidelines for the drives point that out. Mr. Lind said he did

479 not know how you could prohibit people who are organized to conduct drives from just
480 putting them on a copy machine and making copies so they can glean that information
481 but it should be pointed out they cannot copy that social security number.

482 Catherine Flanagan, from Project Vote, asked if the Board was entertaining
483 comments about everything that was discussed and Chairman Judd confirmed that there
484 was a motion on the floor so her comments would include everything. Ms. Flanagan
485 commented on the revision on page 4 in the revised version and that there was a
486 discussion about a distinction between citizenship status which would result in rejection
487 of the application versus an application that does not include previous registration
488 address. Mr. Flanagan noted the discussion about a lack of uniformity and that voters
489 should know that their application rejected if they do not provide previous registration
490 information. Right now it is not clear since it states is required but does not say whether it
491 would be rejected only that it could be. Ms. Flanagan said voter should be informed and
492 said that uniformity is desirable and that it is within the Board's purview to say that
493 registrars should not reject these applications. Ms. Flanagan moved to page 22 and the
494 circulators writing on the application. Ms. Flanagan said that their circulators do write
495 initials on the applications and that allows them to contact the circulator if there is a
496 particular problem. Ms. Flanagan said it is the only way to do quality control. Ms.
497 Flanagan moved on to comments on page 17 regarding the federal form and that the
498 revisions still make it unclear if Virginia will use and accept the federal form. Ms.
499 Flanagan said the instructions on the national form mention the felon laws and that the
500 voter by signing affirms the voter is eligible to vote. Chairman Judd responded that the
501 intention is to provide 20 pages of instruction for the circulator not the voter and it is
502 incumbent on the circulator to be familiar with Virginia Code and the law. Ms. Flanagan
503 responded that circulators should know that Virginia will accept the national form.
504 Chairman Judd noted that the three minute time period for speakers was up. Ms. Flanagan
505 then moved on to the issue of whether the drives can copy. Ms. Flanagan said groups use
506 copies to conduct verification to make sure that eligible applicants are actually put on the
507 rolls. Ms. Flanagan said they believed a good reading of the *Long* case would allow or
508 mandate. Chairman Judd interjected a reminder to Ms. Flanagan regarding the motion on
509 the floor and that her remarks should address that. Ms. Flanagan referenced the section on
510 getting the voter lists and it suggests that an individual conducting a drive may not be

511 able to get the list or that there is some qualification. Ms. Flanagan acknowledged the
512 “maybe” was deleted from the language but that the language still suggests that only
513 certain members can get voter lists. Chairman Judd then quoted the language from the
514 guidelines regarding who has accessibility to the lists and that it was spelled out to
515 prevent commercial use of the list. Ms. Flanagan said all members of the public could
516 receive the list under the NVRA public disclosure. Chairman Judd then noted the
517 language in § 24.2-405 of the Code that states the limitations for voter participation and
518 registration. Chairman Judd said he found it interesting that one individual, one
519 circulator, would want to get the entire voter list and that he thought she may be
520 stretching it. Chairman Judd asked if there were other comments.

521 Therese Martin, representing the League of Women Voters approached the
522 podium with two questions. Ms. Martin inquired if the Board-approved voter registration
523 guidelines would be available throughout the state at the local general registrars’ office.
524 Ms. Martin stated that her interpretation of the materials indicated that there was
525 flexibility in the method of the training. Ms. Martin also asked whether the affidavit on
526 page 20 should be limited to “I” or include language indicating the individual was a
527 representative of the organization. Secretary Palmer responded to Ms. Martin’s inquiry
528 and stated that the online training portal was being developed and will be functional by
529 July 1, 2013. Secretary Palmer stated that the training content would be uniform across
530 the Commonwealth but allow flexibility to general registrars to provide additional points
531 that reflect the specifics of their locality such as in a college town or rural area. Secretary
532 Palmer noted the expectation was that individuals could go into the registrar’s office and
533 get the same training in a written matter. Chairman Judd asked if there were any other
534 comments from the audience and with there being none the Chairman returned the
535 meeting to the desk. Vice-Chair Bowers commended the staff, especially Mr. Piper for
536 presenting, on the importance of the materials and their thoroughness and that as
537 someone who has been on the ground as recently as last year it is very important to have
538 this tool when issues do arise and to have clarification, transparency, and contact
539 information for the what if’s. Chairman Judd asked if the Vice-Chair followed these
540 guidelines and Vice-Chair Bowers responded that she did and that Garry Ellis and Justin
541 Riemer helped train her.

542 Secretary Palmer referenced the question of the affidavit posted by the League of
543 Woman Voters and asked Mr. Piper whether the working group had discussed the issue
544 of whether the individual or representative of organizations would be required to sign the
545 affidavit. Mr. Piper indicated the issue has been discussed and that the person picking up
546 the applications was signing the affidavit and the feeling was that this would still cover
547 and put the personal liability on the individual representing the organization since the
548 organization is listed on the affidavit; however, there were no strong feelings one way or
549 the other on adding “my organization.” Mr. Piper said it would not be an issue if the
550 Board wanted to amend the original motion.

551 Mr. Lief commented that the Code seems to provide that they are signing a sworn
552 affidavit that such individual or organization will abide by the laws. A president or
553 director of an organization, the Code seems to contemplate them signing on behalf of the
554 organization. Then if they would be held accountable there would be standard criminal
555 procedure rules involving what their knowledge or involvement was. The letter of the
556 Code says that such individuals or agents represent the group so it contemplates that
557 someone representing the organization would sign an affidavit. Chairman Judd asked for
558 confirmation that it was still “first-person.” Mr. Lief responded “yes, correct”, the Code
559 contemplates the signing on behalf of the organization. Chairman Judd inquired if there
560 were additional comments and with none the Board unanimously approved the motion.
561 Chairman Judd thanked Mr. Piper and said he hoped Mr. Piper did not charge by the
562 hour.

563 The next order of business was the “Stand by your Ad Complaints” presented by
564 Chris Piper, SBE Election Services Manager. Mr. Piper identified the first matter for
565 Board consideration as the complaint against Ronald Wood. Mr. Piper informed the
566 Board that on or about February 25, 2013, the State Board of Elections received a
567 complaint that Mr. Ronald Wood was “inside” the Portsmouth Court house passing out
568 campaign business cards promoting his candidacy for Portsmouth City Sheriff in the
569 November 2013 General Election. Mr. Piper stated that the candidate has been formally
570 notified about the violation and a response was received. Mr. Piper informed the Board
571 that staff recommended assessing a civil penalty of \$100.00. Chairman Judd inquired if a
572 representative of the committee was present. Chairman Judd noted that, absent a
573 representative of the Ronald Wood, a motion was appropriate. Vice Chair Bowers moved

574 to waive the civil penalty since an apology was given and remedial measures occurred.
575 Secretary Palmer seconded the motion and Chairman Judd asked if there was any further
576 public comment and with there being none the Board unanimously passed the motion.

577 The next order of business was the “Request to Waive Civil Penalties” presented
578 by Chris Piper, SBE Election Services Manager. Mr. Piper identified the matter for Board
579 consideration as the complaint against ACRE Virginia, (PAC 12-00115). Mr. Piper
580 informed the Board that the committee was penalized on December 18, 2012 for not
581 filing its campaign finance report due November 6, 2012 in a timely manner. Mr. Piper
582 stated that the committee requests a waiver of the penalty because they claim they were
583 not aware that a separate large dollar contribution report was required within three
584 business days if the committee received a single \$10,000 contribution. Mr. Piper
585 informed the Board that staff recommended assessing a civil penalty of one hundred
586 dollars. Mr. Piper stated that in Board Policy 2001-003, the Board stated that, among
587 other reasons, good cause allowing Board waiver of campaign finance civil penalties
588 does not include the committee’s lack of knowledge of how to file, the need to file or due
589 date of filing. Vice Chair Bowers moved that the civil penalty be assessed to PAC 12-
590 00115 and Secretary Palmer seconded the motion. Chairman Judd inquired if there was a
591 representative from the ACRE or if there were any comments and there were none. The
592 Board unanimously approved the motion.

593 The next order of business was the “Request to Waive Civil Penalties” presented
594 by Chris Piper, SBE Election Services Manager. Mr. Piper identified the matter for Board
595 consideration as the complaint against the Virginia Parent Political Action Committee,
596 (PAC 12-00918). Mr. Piper informed the Board that the committee was penalized on
597 January 15, 2013 for not filing their campaign finance report due January 15, 2013 in a
598 timely manner. Mr. Piper stated that the committee requests a waiver of the penalty due
599 to the fact they switched from paper to electronic and thought the filing deadline time
600 was midnight. Mr. Piper stated that in Board Policy 2001-003, the Board stated that,
601 among other reasons, good cause allowing Board waiver of campaign finance civil
602 penalties does not include the committee’s lack of knowledge of how to file, the need to
603 file or due date of filing. Mr. Piper informed the Board that staff recommended assessing
604 a civil penalty of one hundred dollars. Secretary Palmer moved that the civil penalty be
605 assessed to PAC 12-00918 and Vice Chair Bowers seconded the motion. Chairman Judd

606 inquired if there was a representative from the Virginia Parent Political Action
607 Committee or if there were any comments and there were none. The Board unanimously
608 approved the motion.

609 The next order of business was the “Independent Expenditures Violation”
610 presented by Chris Piper, SBE Election Services Manager. Mr. Piper identified the matter
611 for Board consideration as the complaint against Community Leaders for Change, PAC-
612 12-01422. Mr. Piper stated that on or about March 1, 2013, the State Board of Elections
613 became aware that ads were taken out on behalf of Community Leaders for Change. Mr.
614 Piper stated that it is clear from the evidence provided that the committee made
615 independent expenditures opposing a candidate(s), but they did so through a third party
616 which made in-kind contributions to the committee. Mr. Piper informed the Board that
617 staff recommends assessing a civil penalty of \$700.00 which is \$100.00 each for each of
618 the seven ads that were published. Secretary Palmer moved that the civil penalty be
619 assessed to PAC 12-01422 and Vice Chair Bowers seconded the motion. Chairman Judd
620 inquired if there was a representative from the Community Leaders for Change or if there
621 were any public comments and there were none. The Board unanimously approved the
622 motion.

623 The next order of business was the Electronic Pollbook Certification & Approval
624 of Pilot Program present by Eugene Burton, Voting Equipment Coordinator. Mr. Burton
625 stated that the City of Richmond has requested to pilot the new electronic pollbook
626 system at the primary on June 11, 2013. Mr. Burton stated that the electronic pollbooks
627 were tested on May 20 and 21, 2013 at SBE. Mr. Burton stated that SBE staff identified
628 some deficiencies and has provided a report to the vendor and the City of Richmond. Mr.
629 Burton stated that the vendor will have the noted deficiencies corrected prior to the June
630 2013 primary. Mr. Burton stated that staff recommendations are to approve the pilot
631 requested by the City of Richmond. Chairman Judd moved that the Board approve the
632 pilot program requested by the City of Richmond and Vice Chair Bowers seconded the
633 motion. Chairman Judd inquired if there were any comments. Bill Thomas, Chairman of
634 the Richmond City Electoral Board, approached the podium. Mr. Thomas stated that he
635 appreciated the Board Members considering the City of Richmond for the pilot program.
636 Chairman Judd inquired if there were any other comments and there were none. The
637 Board unanimously approved the motion.

638 Chairman Judd stated that the New Business portion of the agenda had concluded
639 and inquired if there was any other business to come before the Board. Therese Martin,
640 representing the League of Women Voters approached the podium. Ms. Martin extended
641 her compliments to the redesign of the forms. Chairman Judd thanked Ms. Martin for her
642 comments. Chairman Judd inquired if there were any other comments. Mr. Bruce Tyler
643 approached the podium. Mr. Tyler stated that he sent a letter to SBE on December 31,
644 2013 in regards to some issues regarding the Richmond City General Registrar's office.
645 Mr. Tyler inquired as to any further action by SBE Board Members. Secretary Palmer
646 stated that SBE did issue a response to Mr. Tyler and informed Mr. Tyler that he spoke to
647 the general registrar on the issues. Secretary Palmer stated that the agency will be
648 working on improvements to the absentee ballot process which is of concern to Mr.
649 Tyler. Secretary Palmer stated that the issues that Mr. Tyler raised fall within the General
650 Assembly to make the process more efficient. Mr. Tyler stated that he appreciated the
651 input from SBE but felt that the general registrar was negligent in her actions. Chairman
652 Judd thanked Mr. Tyler for his comments.

653 Chairman Judd asked if there was any other business to come before the Board for
654 the Good of the Order and with there being none Chairman Judd made a motion to
655 adjourn. Vice Chair Bowers seconded the motion and the Board unanimously passed the
656 motion. The Board shall reconvene on June 25, 2013 at 10:00 AM in the General
657 Assembly Building, Room C. The meeting was adjourned at approximately 12:40PM.

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Secretary

Chair

Vice-Chair