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The State Board of Elections Board Meeting was held on Tuesday, June 25, 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 & SBE Counsel; Justin Riemer, Deputy Secretary; Nikki Sheridan, Confidential Policy Advisor; Chris Piper, Election Services Manager; Susan Lee, Election Uniformity Manager; Martha Brissette, SBE Policy Analyst; Myron McClees, SBE Policy Analyst; Lindsay Fraser, Elections Uniformity Analyst; and Matt Abell, Elections Services Lead. Chairman Judd called the meeting to order at 10:00a.m.

The first order of business was the approval of the SBE Board Minutes from the May 14, 2013, May 22, 2013 and the June 11, 2013 Board Meetings. Chairman Judd stated that each set of Board Meeting Minutes would be addressed separately. Secretary Palmer moved *to take the May 22, 2013 draft Board Meeting Minutes off the agenda for further revision*. Vice Chair Bowers seconded the motion and the Board unanimously approved the motion. Chairman Judd asked if Board Members had any additions or corrections to the May 14, 2013 Board Minutes and there were none noted. Chairman Judd moved *that the May 14, 2013 Minutes be approved as submitted*. Secretary Palmer seconded the motion. Chairman Judd asked if there was any discussion and with none the Board unanimously approved the Minutes. Chairman Judd asked if Board members had any additions or corrections to the June 11, 2013 Board Minutes and there were none noted. Secretary Palmer moved *to adopt the June 11, 2013 Minutes*. Vice Chair Bowers seconded the motion and the Board unanimously approved the motion.

The seconded order of business was the Secretary’s Report delivered by Secretary Palmer. Secretary Palmer stated that there was legislation that will be implemented on July 1, 2013. Secretary Palmer stated that the online registration legislation portal will be in testing and SBE will be conducting webinars and training sessions with the general registrars this week and into next week with the testing continuing with the DMV and the transferring of data. The general registrars will receive electronic registration data similar to how they would receive other information through VERIS. Secretary Palmer noted the diligent efforts of SBE staff in preparing for this legislation. Secretary Palmer stated that

33 online registration training will be implemented on July 1, 2013. Secretary Palmer noted
34 the Board Members reviewed and adopted the Third Party Voter Registration Guidelines
35 and affidavit. Secretary Palmer stated that SBE staff is working on the training to
36 include how it will be conducted in person at the general registrars' office and how it
37 would be conducted online through the SBE website. Secretary Palmer states that SBE
38 requested that the general registrars work with SBE staff in a workgroup and a 10
39 member ad hoc committee had been formed for the purpose of reviewing the voter
40 registration application. Secretary Palmer noted that any substantive changes would occur
41 after the November 2013 Gubernatorial Election. Secretary Palmer stated SBE has been
42 working with groups of states in comparing registration data. Secretary Palmer stated that
43 we have made good progress in working with our neighboring states in the potential
44 comparison of voter registration rolls: Washington, D.C., West Virginia, and North
45 Carolina. Chairman Judd asked if SBE has communicated with Maryland. Secretary
46 Palmer replied that Maryland is part of the ERIC project and we have been encouraging
47 Washington, D.C. to participate in the ERIC project because the information is extremely
48 accurate as it works with DMV and state registration lists. Chairman Judd asked
49 Secretary Palmer to explain the difference between online registration in that we have the
50 ability to have a perspective voter to get on the SBE website, pull up the registration
51 form, key in the information, then print it out, and sign it then send it to the general
52 registrar. Chairman Judd asked when the information gets to the general registrar will the
53 registrar then make a hard copy and compare the data? Secretary Palmer replied that it is
54 part of the process and if you do not go through the online process for a particular reason,
55 you can still fill out your information and print it out and mail it in and that data will be
56 collected in a hopper, so when the general registrar does receive the paper application the
57 process will be easier. Chairman Judd asked about the online registration process without
58 the printout, signing and sending it in, "How do we handle the signature of the voter?"
59 Secretary Palmer replied that the signature is obtained when a person goes to the DMV
60 and goes through the verification process of obtaining an identification card they provide
61 a signature and then that signature is digitalized so when the individual is on the SBE
62 website and certifies who they are and that this is their information and it is accurate they
63 certify that they are allowing their signature to be pulled by SBE and provided on the

64 electronic document that will then be provided to the local general registrar. Chairman
65 Judd thanked Secretary Palmer for the information.

66 The next order of business was the Legal Report delivered by Joshua Lief, SBE
67 Counsel. Mr. Lief reported that the Attorney General's Office submitted the preclearance
68 documents to the Department of Justice for the bills signed by the Governor that will take
69 effect in 2013. Mr. Lief reported that there are two pending cases; the *Libertarian Party*
70 case which is in the Federal Circuit Court of Appeals and the *Fairfax County Democratic*
71 *Party* case against SBE and the General Registrar and electoral board of Fairfax County.
72 Mr. Lief reported that the Supreme Court decision on Section 4 and 5 of the Voting
73 Rights Act was received this morning and that the Supreme Court had held the Section 4
74 coverage formula of the Voting Rights Act invalid. Chairman Judd asked if there were
75 any comments. Vice Chair Bowers asked which bills had been submitted to the
76 Department of Justice (DOJ) for approval and would that include the voter identification
77 bill. Mr. Lief replied that the Attorney General's Office did not submit the voter
78 identification bill to DOJ because that does not take effect until 2014 and offered to send
79 the list of bills via email to Vice Chair Bowers. Chairman Judd asked if there were any
80 comments and there were none.

81 The next order of business was the presentation of the resolution honoring the
82 work of Theresa Kyle, retiring General Registrar of Hampton City. The Board presented
83 the resolution to Ms. Kyle and each Board member extended their sincere thanks for her
84 32 years of service to the election community. Ms. Kyle thanked SBE for the years of
85 support and noted that she was looking forward to her retirement.

86 The next order of business was to ascertain the results of the Primary Election on
87 June 11, 2013 pursuant to § 24.2-534 of the Code of Virginia. Matt Abell, Election
88 Administration Lead, explained the certification process to the Board and SBE staff
89 members. SBE Board members and SBE staff partnered to complete the certification
90 process. Chairman Judd instructed Mr. Abell to announce the results of the Primary
91 Election. Mr. Abell stated that having examined the certified abstracts of the votes given
92 in the counties and cities of the Commonwealth at the Democratic and Republican
93 Primary Elections held on June 11, 2013, for Lieutenant Governor, Attorney General and
94 House of Delegates, Districts 6, 15, 16, 28, 29, 33, 54, 63, 85, 86 and 90, the State Board
95 determined the following individuals received the most votes in said elections and thus

96 have won his/her party's nomination for the November 5, 2013 General Election. Mr.
97 Abell provided the following details:

- 98 • Receiving the greatest number of votes cast in the Democratic Party
99 Primary Election for Lieutenant Governor (78,476), Senator Ralph S.
100 Northam was duly nominated as the candidate of the Democratic Party in
101 the general election for Lieutenant Governor of Virginia.
102
- 103 • Receiving the greatest number of votes cast in the Democratic Party
104 Primary Election for Attorney General (73,069), Senator Mark R. Herring
105 was duly nominated as the candidate of the Democratic Party in the
106 general election for Attorney General of Virginia.
107
- 108 • Receiving the greatest number of votes cast in the Democratic Party
109 Primary Election for House of Delegates, District 63 (2,507), Delegate
110 Rosalyn R. Dance was duly nominated as the candidate of the Democratic
111 Party in the general election for House of Delegates, District 63.
112
- 113 • Receiving the greatest number of votes cast in the Democratic Party
114 Primary Election for House of Delegates, District 86 (1,255), Jennifer B.
115 Boysko was duly nominated as the candidate of the Democratic Party in
116 the general election for House of Delegates, District 86.
117
- 118 • Receiving the greatest number of votes cast in the Democratic Party
119 Primary Election for House of Delegates, District 90 (1,817), Delegate
120 Algie T. Howell, Jr. was duly nominated as the candidate of the
121 Democratic Party in the general election for House of Delegates, District
122 90.
123
- 124 • Receiving the greatest number of votes cast in the Republican Party
125 Primary Election for House of Delegates, District 6 (684), Jeffrey L.
126 Campbell was duly nominated as the candidate of the Republican Party in
127 the general election for House of Delegates, District 6.
128
- 129 • Receiving the greatest number of votes cast in the Republican Party
130 Primary Election for House of Delegates, District 15 (3,661), Delegate C.
131 Todd Gilbert was duly nominated as the candidate of the Republican Party
132 in the general election for House of Delegates, District 15.
133
- 134 • Receiving the greatest number of votes cast in the Republican Party
135 Primary Election for House of Delegates, District 16 (2,421), Les R.
136 Adams was duly nominated as the candidate of the Republican Party in the
137 general election for House of Delegates, District 16.
138
- 139 • Receiving the greatest number of votes cast in the Republican Party
140 Primary Election for House of Delegates, District 28 (1,362), Speaker

141 William J. Howell was duly nominated as the candidate of the Republican
142 Party in the general election for House of Delegates, District 28.

143

144 • Receiving the greatest number of votes cast in the Republican Party
145 Primary Election for House of Delegates, District 29 (1,573), Mark J. Berg
146 was duly nominated as the candidate of the Republican Party in the
147 general election for House of Delegates, District 29.

148

149 • Receiving the greatest number of votes cast in the Republican Party
150 Primary Election for House of Delegates, District 33 (2,958), David A.
151 LaRock was duly nominated as the candidate of the Republican Party in
152 the general election for House of Delegates, District 33.

153

154 • Receiving the greatest number of votes cast in the Republican Party
155 Primary Election for House of Delegates, District 54 (1,366), Delegate
156 Robert D. “Bobby” Orrock was duly nominated as the candidate of the
157 Republican Party in the general election for House of Delegates, District
158 54.

159

160 • Receiving the greatest number of votes cast in the Republican Party
161 Primary Election for House of Delegates, District 85 (1,341), Scott W.
162 Taylor was duly nominated as the candidate of the Republican Party in the
163 general election for House of Delegates, District 85.

164

165 Chairman Judd declared the results of the June 11, 2013 Election Primary officially
166 certified.

167 The next order of business was the drawing of the ballot order for the November
168 5, 2013 General Election. Chris Piper, Election Services Manager, explained the process.
169 Vice Chair Bowers drew the first position of the Democratic Party and Secretary Palmer
170 drew the second position of the Republican Party. Chairman Judd announced that the
171 Democratic candidate would appear first on the ballot and the Republican candidate
172 would appear second on the ballot.

173 The next order of business was the Appeals of Petition Signature Insufficiency
174 Proposed Regulation presented by Chris Piper, Election Services Manager. Mr. Piper
175 stated that the current regulation was submitted to Regulatory Town Hall and comments
176 were received that were taken into consideration when revising the new regulation. Mr.
177 Piper stated that a summary of the comments were provided to Board members. Mr. Piper
178 referred all questions to SBE Policy Analyst, Myron McClees. Mr. McClees stated that in
179 a recent court case SBE was required to establish an appeal process for a candidate to

180 challenge their perceived insufficiency of gathering a sufficient amount of signatures. Mr.
181 McClees noted the prominent changes as the deletion of “State Board of Elections” from
182 Section B which may have created confusion as the petitions are submitted to the local
183 Electoral Board. Mr. McClees noted the inclusion of a sentence on Section F that states
184 “Electronic mail will be the preferred method of notifying the candidate if such address
185 has been provided by the candidate, otherwise, notice shall be sent by first-class mail”.
186 Mr. McClees stated there was a deletion in Section (G)(5) of the last sentence: “A
187 candidate may provide documents establishing that the petition signer filed a Virginia
188 voter registration application or change of address application to their local registrar
189 during the period in which the locality’s voter registration procedures were suspended in
190 accordance with § 24.2-416.” Chairman Judd asked about Section F where Mr. McClees
191 added the sentence about first-class mail and stated: “I understand in the Richmond issue
192 the candidate provided no contact information, would there be the ability to call them by
193 phone?” Mr. McClees stated that it would be a problem if there was no ability to contact
194 the candidate. Chairman Judd asked if there was a way the candidate could prove that it
195 was sent it by first-class mail. Mr. McClees replied that there was not. Chairman Judd
196 inquired if there were any other questions or comments. Secretary Palmer thanked the
197 SBE staff for working on this regulation. Chairman Judd asked if there were any other
198 questions or comments. Vice Chair Bowers moved that *the Board approve the proposed*
199 *regulation IVAC-20-50-30, Appeals of Petition Signature Insufficiency, to implement*
200 *recently enacted legislation Chapter 684 of the Acts of Assembly.* Secretary Palmer
201 seconded the motion and Chairman Judd inquired if there were any comments and there
202 were none. The Board unanimously carried the motion.

203 The next order of business was the Material Omissions on Candidate Petitions
204 Regulation presented by Myron McClees, SBE Policy Analyst. Mr. McClees stated that
205 this regulation was placed on Regulatory Town Hall for comment and SBE did receive a
206 comment. Mr. McClees stated that most of the changes are with Section B(6) of the
207 regulation. Mr. McClees stated that B(6) was removed as a requirement “The circulator is
208 (i) not a legal resident of the Commonwealth,” Mr. McClees stated that Section B(9) was
209 added: “A person other than the circulator signed the petition affidavit”. Mr. McClees
210 noted a change was desired to Section E(3) which reads “the signer provides an address
211 that matches the petitions signer’s address in the Virginia voter registration system unless

212 the signer provided an address that is within the same precinct where a voter is currently
213 registered in the Virginia voter registration system and the signer can be reasonably
214 identified as the same registered voter” which was to change the word “unless” to “or”.
215 Mr. McClees stated that this change deals with a voter who moves within their precinct.
216 Chairman Judd questioned if a voter has moved within a precinct is their signature valid
217 for the petition. Mr. McClees replied that the signature would be valid for the petition.
218 Chairman Judd asked about the omissions of the sentence in Section C stating “If the
219 circulator signs the petition in the “Signature of Registered Voter,” his signature shall be
220 invalidated but the petition shall be valid notwithstanding any other error or omission.”
221 Mr. McClees replied that this information was contained in Section C(2). Chairman Judd
222 thanked Mr. McClees for the clarification. Chairman Judd asked if there were any other
223 questions.

224 Mr. Lief stated that he had worked with SBE staff on this regulation and had a
225 concern about Section B(2) asking for the address of the candidate and that is not a
226 required by Code. Mr. Lief stated that he also had a question about the double-sided
227 petition requirement listed on Section B(1) and both of these items were more Board
228 policy rather than Code. Mr. Lief stated that he had an additional question on Section D
229 and suggested a change in the language to now read: “The following omissions shall be
230 treated as nonmaterial provided the general registrar can independently and reasonably
231 verify validity of the petition or signature.” Chairman Judd asked if SBE Board members
232 understood that revision and Board members acknowledge the suggested change. Mr.
233 Lief also stated there was some concern with D(4) and the language suggested that a
234 petition signer must provide the last four of their social security number. Mr. Lief stated
235 that pursuant to the Code a signer “may” provide the last four but does not have to
236 provide the last four. Mr. Riemer stated that it is not material if you omit your last four
237 for the affidavit signer rather than actual petition signer. Mr. Riemer stated that D(4)
238 relates to the affidavit and the Code specifically states that failure to include the last four
239 of the social security number should not render any petition signature invalid. Vice Chair
240 Bowers stated that she was in agreement with the changes and these changes provides
241 clarification. Chairman Judd asked if there were any other comments and there were
242 none. Chairman Judd moved *to accept the suggested changes to the regulation in that*
243 *Section D would now read: “The following omissions shall be treated as nonmaterial*

244 *provided the general registrar can independently and reasonably verify the validity of the*
245 *petition or signature” and the change to Section E(3) to read: “The signer provides an*
246 *address that matches the petition signers’ address in the Virginia voter registration*
247 *system or the signer provided an address that is within the same precinct where a voter is*
248 *currently registered in the Virginia voter registration system and the signer can be*
249 *reasonably identified as the same registered voter.”* Secretary Palmer seconded the
250 motion. Chairman Judd asked if there was any public comment and there was none and
251 the Board unanimously passed the motion. Chairman Judd moved *to approve the*
252 *proposed regulations as amended.* Vice Chair Bowers seconded the motion. Chairman
253 Judd asked if there were any public comments. Walt Latham, York County General
254 Registrar, approached the podium and stated that there was a section in the regulation that
255 dealt with the street type and expressed concern about that issue. Mr. McClees stated that
256 the address was a part of a previous regulation. Chairman Judd asked if there were
257 additional public comments and there were none. The Board unanimously passed the
258 motion.

259 The next order of business was the Material Omissions on Referenda Petitions
260 Regulation presented by Chris Piper, Election Services Manager. Mr. Piper stated that
261 Myron McClees, SBE Policy Analyst, worked on this project and believed that the same
262 changes made to the Material Omissions on Candidate Petitions Regulation would apply
263 to the regulation currently before the Board. Mr. McClees informed the Board that the
264 changes were similar and that the changes adopted by the Board on the Candidate
265 Petitions could be incorporated in the Referenda Petitions. Mr. McClees noted the change
266 in Section F(3) which was similarly changed from “unless” to “or” and the change
267 suggested by counsel to the Board in Section E in regards to: “The following omissions
268 shall be treated as nonmaterial provided the general registrar can independently and
269 reasonably verify the validity of the petition or signature”. Chairman Judd asked if there
270 were any other comments. Chairman Judd stated that he wanted to make a comment
271 about Section B(1) that states: “The petition submitted is not the double-sided document,
272 or a copy thereof, provided by the State Board of Elections.” Chairman Judd stated that it
273 should read “The petition submitted is not the double-sided document, or a double-sided
274 copy thereof, provided by the State Board of Elections” because of the case where a
275 candidate did not meet the requirements because they copied the forms and the

276 documents were not double-sided. Vice Chair Bowers stated that she agreed with
277 Chairman Judd's proposed changes. Secretary Palmer asked if there were any comments
278 from SBE staff. Mr. Piper acknowledged the change as acceptable and stated that the
279 Candidate Petition regulation should be amended to reflect this same language. Chairman
280 Judd stated that Section B(1) would now read: "The petition submitted is not the double-
281 sided document, or a double-sided copy thereof, provided by the State Board of
282 Elections" and Section E(1) will read: "The following omissions shall be treated as
283 nonmaterial provided the general registrar can independently and reasonably verify the
284 validity of petition or signature" and Section F(3) should read: "The signer provides an
285 address that matches the petition signers' address in the Virginia voter registration system
286 or the signer provided an address that is within the same precinct where a voter is
287 currently registered in the Virginia voter registration system and the signer can be
288 reasonably identified as the same registered voter." Chairman Judd moved *that those*
289 *proposed amendments be added to the Material Omissions for Referendum Petitions*
290 *currently under consideration.* Vice Chair Bowers seconded the motion. Chairman Judd
291 asked if there were any other comments and there were none. The Board unanimously
292 approved the motion. Chairman Judd then noted a second motion was required to adopt
293 the regulation. Vice Chair Bowers moved *that the Board adopt the proposed amendments*
294 *to regulation IVAC 20-60-20 material omissions on referendum petitions and petition*
295 *signature qualification, to implement recently enacted Chapter 684, Acts of Assembly.*
296 Secretary Palmer seconded the motion. Chairman Judd asked if there were any
297 comments. Walt Latham, General Registrar York County, approached the podium. Mr.
298 Latham stated that he was concerned about the Referenda Petitions versus the Candidate
299 Petitions since in the Hampton Roads area there are a lot of cities that have provisions in
300 their charters dealing with initiative referenda and recalls. Mr. Latham stated that some of
301 the petitions regulations in the charters are more particular than the ones approved. Mr.
302 Latham inquired if there could be an insertion in the regulation to clarify how the
303 regulation stood in relationship to the charter. Chairman Judd asked Mr. Lief if the
304 charter takes precedent over the regulation. Mr. Lief replied "yes", that a city charter is an
305 act of the General Assembly. Chairman Judd inquired if there were any other public
306 comments and there were none. The Board unanimously approved the motion.

307 Secretary Palmer moved that *the Board amend the Candidate Petition on Section*
308 *B(1): “The petition submitted is not the double-sided document, or a double-sided copy*
309 *thereof, provided by the State Board of Elections”*. Vice Chair Bowers seconded the
310 motion. Chairman Judd asked if there were any further comments and there were none.
311 The Board unanimously approved the motion.

312 The next order of business was the When a Ballot is Cast Regulation presented by
313 Myron McClees, SBE Policy Analyst. Mr. McClees stated that the comments received
314 on this regulation pertain to the underlying statute as opposed to the regulation; therefore
315 those recommendations received could not be incorporated. Chairman Judd stated that
316 the issue at hand was whether the election official could place a ballot back in the scanner
317 that had been kicked out due to an overvote once the voter had left the polling place.
318 Chairman Judd asked Mr. McClees if this was the issue being addressed. Mr. McClees
319 stated that the scanners are programmed to not count that specific race in that situation
320 and the scanner will then ask you do you wish to accept “Yes” or “No” and if you select
321 “Yes” the scanner is going to accept that ballot and it is going to count every race except
322 for the office that received the overvote. Mr. McClees stated that if you select “No” then
323 the ballot is placed in the canceled ballots. Mr. McClees stated that the scanner would
324 never count all the votes if an overvote occurs. Chairman Judd asked if there were any
325 comments. Secretary Palmer stated that there is a distinction between optical scan and
326 how that system works and the touch screen and the distinction is if the voter is at a touch
327 screen and you try to cast your vote the screen tells you that you have overvoted and your
328 ballot is not cast until you resolve that issue. Secretary Palmer stated with the optical scan
329 the General Assembly believes that you tried to cast the vote, and then the voter has left
330 which creates some concern in the field about the remedial measures. Secretary Palmer
331 noted that the regulation is being revised so that it conforms to the law. Vice Chair
332 Bowers asked about the kickback of the votes being cast and placed into the optical
333 scanner, and how long before the machine receives the ballot, before it recognizes an
334 error and rejects the feed? Vice Chair Bowers also asked if there was a way to ensure
335 that the voter wait to ensure that the ballot was fed properly before exiting the polling
336 station. Secretary Palmer replied that this process occurs quickly and the desired time was
337 around 3-5 seconds. Chairman Judd asked about the recommendation on Section D where
338 it adds: “Notwithstanding the previous sentence, if a voter inserts a ballot into an optical

339 scanner and departs prior to the ballot being returned by the scanner due to an overvote,
340 the officer of election may cast the ballot for the absent voter” to the end of the sentence:
341 “If any voter’s ballot was not so cast by or at the direction of the voter, then the ballot
342 cannot be cast by any officer of election or other person present.” Chairman Judd asked if
343 there were any other questions. Vice Chair Bowers moved that *the Board accept staff*
344 *recommendation*. Secretary Palmer seconded the motion and Chairman Judd asked if
345 there were any public comments. Therese Martin, League of Women Voters of Virginia,
346 approached the podium. Ms. Martin stated that she was present at the Virginia Senate
347 Privilege and Elections Committee Meeting when this matter was discussed. Martin
348 asked: “How can you accept an overvote”? Chairman Judd and Vice Chair Bowers both
349 replied “You cannot accept the overvote”. Ms. Martin stated that it is misleading as
350 something has to been done to eliminate the overvote. Secretary Palmer stated if you
351 have an overvote the only way that you can really correct it would be on a new ballot and
352 so there is no way to correct it and you would have to submit that ballot with the overvote
353 so that the rest of the races are counted. Secretary Palmer stated that if you were voting
354 with the optical scan the only way to fix that would be to take that ballot and get a new
355 ballot and fix it, which really is the only way to rectify an overvote. Ms. Martin asked:
356 “What happens to that overvote”? Secretary Palmer replied: “That race is not counted”.
357 Chairman Judd stated that Mr. McClees mentioned that the machine could be
358 programmed to count the ballot but not tabulate the overvote. Chairman Judd asked if
359 that counted the ballot or did it that kick the ballot out. Mr. McClees replied that all
360 scanners are programmed to only accept a certain amount for each race. Chairman Judd
361 stated that the overvote is not counted. Vice Chair Bowers asked Mr. McClees that in the
362 example that he gave if the person double votes are the other votes counted at that time
363 and then that person only votes for the other offices where a double vote has not
364 occurred? Vice Chair Bowers inquired if the voter was still present would they just vote
365 for the overvoted office or would they have to revote the entire ballot. Mr. McClees
366 replied that in this situation where a person overvotes and they are still present they are
367 given the opportunity to cast an entirely new ballot and that other ballot is placed into an
368 envelope for accounting purposes. Chairman Judd asked if there were any other public
369 comments. Greg Riddlemoser, General Registrar of Stafford County, approached the
370 podium. Mr. Riddlemoser stated that there are several practical applications to the

371 administrative guidance that the Board is providing. Mr. Riddlemoser stated that after the
372 voter has checked in and has passed the electronic pollbook any number of things can
373 occur. Mr. Riddlemoser stated that if we look at the voter's intent that they were going to
374 cast the ballot there are more reasons that a ballot is rejected by the scanner than just
375 overvotes. Mr. Riddlemoser stated that if the voter is still present we can ask the voter's
376 intent to overvote and corrections are made if desired but every race is counted where an
377 overvote did not occur. Mr. Riddlemoser stated that perhaps an amendment could occur
378 due to legislative intent if the ballot is rejected for an overvote or some other mechanical
379 reason the officer of election may inserted the ballot. Chairman Judd stated that the
380 language the Board was adding is: "If any voter's ballot was not so cast by or at the
381 direction of the voter, the ballot cannot be cast by any officer of election or other person
382 present. Notwithstanding the previous sentence, if a voter inserts a ballot into an optical
383 scanner and departs prior to the ballot being returned by the scanner due to an overvote,
384 the officer of election may cast the ballot for the absent voter." Chairman Judd asked Mr.
385 Riddlemoser how does that differ from your proposal? Mr. Riddlemoser replied that the
386 ballot scanning device may reject the ballot for reasons other than overvote. Chairman
387 Judd asked Mr. Riddlemoser to provide an example. Mr. Riddlemoser replied if the ballot
388 is inserted into the optical scan and the electronic eye does not see the reference marks in
389 the right sequence it will reject the ballot and your guidance is that the only time an
390 officer of election can reinsert the ballot is when an overvote has occurred. Mr. Lief
391 stated that the General Assembly made clear that this change to the Code was directed to
392 the situation for when the voter had cast an overvote. Secretary Palmer asked Mr.
393 Riddlemoser if there was a difficulty in the ballot going through the scanner multiple
394 times would that ballot be placed in a separate area and counted by hand. Mr.
395 Riddlemoser replied that our guidance is that when a voter attempts to put the ballot in
396 and the machine rejects the ballot and the voter is no longer present that is handled as a
397 precinct void. Deputy Riemer stated that in reviewing the amended Code section once the
398 legislation takes effect there may be other instances where this scenario may be
399 appropriate for the officer of election to reinsert the ballot. Deputy Riemer stated that the
400 changes in the law should allow for the officer of election to reinsert in the event that the
401 title of the office is erased. Chairman Judd asked if the Board is under a time constraint
402 for this regulation update. Secretary Palmer stated that the Code goes into effect on July

403 1, 2013 and while this is providing additional guidance, the Board could table this
404 regulation and develop the language further. Chairman Judd moved *to table*. Vice Chair
405 Bowers seconded the motion and the Board passed the motion unanimously.

406 The next order of business was the revised regulation on Material Omissions from
407 Absentee Envelope B presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette
408 stated that the Board was presented the regulation at the May 2013 Board Meeting and
409 this regulation went out for comment on Virginia Town Hall. Ms. Brissette stated that
410 there has been some language changed due to the comments received by SBE. Ms.
411 Brissette explained the changes and noted that in Section C(10) of the regulation the voter
412 is still expected to use and seal Envelope B. Chairman Judd asked if there were any
413 comments. Vice Chair Bowers asked Ms. Brissette about Section C(10). Vice Chair
414 Bowers asked if the amended language of Section C(10) was comprehensive in that item
415 10 states: “The ballot is imperfectly sealed within Envelope B, provided that the ballot is
416 contained within Envelope B, there is evidence that a good faith effort was made to seal
417 the envelope, the outer envelope with Envelope B and ballot arrived sealed, and the
418 circumstances create no reason to suspect fraud”. Ms. Brissette replied “That is correct”.
419 Mr. Lief stated that it is a requirement under the Code that the voter seal the envelope.
420 Ms. Brissette stated that the general registrars requested guidance during the 2012
421 General Election about Envelope Bs arriving unsealed. Chairman Judd asked if there
422 were any other comments. Chairman Judd inquired about several items on the regulation,
423 including the issue of generational suffix and order of the name provided by the voter,
424 that were not reviewed during this update and expressed concern that the regulation was
425 weakened. Secretary Palmer stated this regulation is always subject to change by the
426 Board and that the Board addressed some of the issues last year, however the Board may
427 put those areas of concern through the review process in the future. Vice Chair Bowers
428 asked for clarification on the outer envelope with the prestamped return address and
429 whether the generational suffix on the front would permit General Registrar’s to discern
430 between which individual was to vote with the ballot provided. Chairman Judd stated that
431 he had expected to see some of those previously mentioned desired changes on the
432 revised regulation before him and that basically we are dealing with Section C(10) and
433 Section B(9). Chairman Judd stated that he would like SBE to address these concerns as
434 soon as possible. Secretary Palmer moved that *the Board approve the revised staff*

435 *amendment to the regulation on Envelope B dealing with sealing the voted ballot* and
436 Vice Chair Bowers seconded the motion. Chairman Judd asked if there were any public
437 comments. Walt Latham, General Registrar of York County approached the podium. Mr.
438 Latham stated that this issue had become a real concern for his locality because envelopes
439 become unsealed in the process of delivery to the General Registrar Office. Chairman
440 Judd asked if there were any other comments from the public and there were none. The
441 Board unanimously approved the motion.

442 The next order of business was the Material Omissions on the Federal Write-In
443 Absentee (FWAB) ballots presented by Martha Brissette, SBE Policy Analyst. Ms.
444 Brissette stated that the regulation the Board is reviewing has not changed since the
445 Board review the regulation at the May Board Meeting. Ms. Brissette stated that staff
446 recommendation was to approve the regulation as proposed. Chairman Judd asked if
447 there were any comments and there were none. Chairman Judd moved that *the Board*
448 *approve the staff proposed amendment providing a substantial compliance standard for*
449 *assembling the voted FWAB package.* Vice Chair Bowers seconded the motion.
450 Chairman Judd asked if there were any public comments and there were none. The Board
451 unanimously approved the motion.

452 The next order of business was the Early Processing of Absentee Ballots
453 Regulation presented by Lindsay Fraser, Election Uniformity Analyst. Ms. Fraser stated
454 that the regulation before the Board contained updates due to recently enacted legislation.
455 Ms. Fraser stated that this regulation allows the general registrars to take preprocessing
456 actions as needed when absentee ballots arrive in their offices prior to Election Day Ms.
457 Fraser stated that one comment was received on Regulatory Town Hall that supported the
458 suggested change. Chairman Judd stated that the change requested was that the title of the
459 regulation currently reads “Alternative Counting Procedures” and the change requested is
460 that the regulation should be titled “Alternative Processing Procedures for Absentee
461 Ballots” returned before Election Day. Chairman Judd asked if there were any comments
462 and there were none. Secretary Palmer moved that *the Board approve the proposed*
463 *amendments of regulation IVAC-20-70-40, Alternative Counting Procedures, to*
464 *implement recently enacted Chapter 501, Acts of Assembly (HB2107).* Vice Chair Bowers
465 seconded the motion. Chairman Judd asked if there were any public comments and there
466 were none. The Board unanimously approved the motion.

467 Chairman Judd opened the meeting to other business and public comments. Walt
468 Latham, York County General Registrar, approached the podium. Mr. Latham stated that
469 today was the 225th Anniversary of Virginia's ratification of the U.S. Constitution.
470 Chairman Judd asked if there were any other public comments. Michelle Kanter Cohen,
471 Election Counsel, Project Vote approached the podium. Ms. Kanter Cohen stated that
472 although she had not read the entire opinion it appears that Section 4 appears to be
473 unconstitutional and not Section 5. Ms. Kanter Cohen stated that Project Vote made
474 comments regarding the periodic review of regulations and that she was available to
475 answer any questions the Board may have. Chairman Judd asked if there were any other
476 public comments. Therese Martin, League of Women Voters, approached the podium.
477 Ms. Martin stated that she wished to thank the SBE staff for all their efforts in making the
478 changes to the Third Party Voter Registration Guidelines.

479 Chairman Judd asked if there was any other business to come before the Board for
480 the Good- of-the-Order. Secretary Palmer stated that currently notices of regulations are
481 posted through Virginia's Regulatory Town Hall and SBE would like to utilize the SBE
482 website which will increase efficiency. Secretary Palmer suggested that the Board
483 Members consider this action. Chairman Judd expressed similar concerns and agreed that
484 utilizing the SBE website is appropriate and would like the Board to expedite this
485 consideration. Secretary Palmer stated that SBE staff would bring a regulation to the
486 Board at the next Board Meeting. Secretary Palmer informed the Board Members that
487 there would be a program on July 10, 2013, "Boots & Ballots 2013" at the Virginia State
488 Capitol. Chairman Judd asked if there were any other comments and with there being
489 none Secretary Palmer moved *to adjourn*. Vice Chair Bowers seconded the motion and
490 the Board approved the motion to adjourn. The meeting was adjourned at approximately
491 12:35PM.

492 The Board shall reconvene on July 24, 2013 at 10:00a.m. in the General
493 Assembly Building, Room C.

494 _____
495 Secretary

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498 _____
499 Chair

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Vice-Chair