The State Board of Elections board meeting was held on Monday, May 1, 2017. The meeting was held in House Room 1 in the Virginia State Capitol in Richmond, Virginia.

In attendance, representing the State Board of Elections (SBE) was James Alcorn, Chairman; Clara Belle Wheeler, Vice-Chair; and Singleton McAllister, Secretary. Also in attendance, representing the Department of Elections (ELECT) was Edgardo Cortés, Commissioner; Elizabeth Howard, Deputy Commissioner; and Martin Mash, Confidential Policy Advisor. Anna Birkenheier, Assistant Attorney General, was also in attendance. Chairman Alcorn called the meeting to order at 10:26AM.

The first order of business was to approve previous SBE minutes, but Chairman Alcorn noted there are some edits and minor amendments to be made. The item was tabled until the next meeting, after the minutes have been corrected.

The next order of business was the Commissioner's report, presented by Edgardo Cortés, Commissioner. Commissioner Cortés informed SBE that absentee voting begun on Friday, April 28, for the upcoming June 13 Statewide dual primaries for the offices of Governor and Lieutenant Governor, a number of House of Delegate seats, and local offices. Commissioner Cortés also gave an update on the ballot proofing process, noting that about half of the ballots were sent back to localities and printers for edits after initial submission. Chairman Alcorn asked how the proofing process went compared to previous elections. Commissioner Cortés noted there was not previously a system to track this information, but the system used this year is better suited to provide that insight moving forward. The Chairman encouraged the Department to track if that is something that improves over time.

Commissioner Cortés also went over ELECT's current list of staff, and then discussed the new liaison program that provides a group of staff at the Department as the main points of contact for General Registrars. The Commissioner informed SBE that liaisons will be going to local offices soon to meet Registrars and learn how local offices run. The Commissioner also provided a list of principle policy analysts by subject area for the Department, and then discussed upcoming changes to the VERIS Help Desk.

Vice Chair Wheeler asked how many people are employed at ELECT, specifically in the IT department. Commissioner Cortés responded that the Department has 7 full time contractors, 3 part-time contractors (at less than 5 hours per week), 11 full time employees, and 7 vacancies; the Commissioner clarified that the Department is moving towards providing primarily IT and policy support to localities.

Chairman Alcorn asked when General Registrars should contact their liaison versus contacting a policy analyst. Commissioner Cortés clarified that liaisons should be the primary points of contact for all questions; the liaisons will then use resources, including the policy analysts, to provide support and answers.

Secretary McAllister asked when the security vacancy in the IT staff would be filled, and Commissioner Cortés answered in July. Secretary McAllister also inquired when the Senior Office Administrator position would be filled, and Commissioner Cortés provided the position currently is in process to be filled. The Commissioner noted the Department should be fully staffed by the end of the year. That concluded the Commissioner's report.

The next order of business to certify the April 18 Special Election for the Clerk of Circuit Court for the 31<sup>st</sup> Judicial Circuit, presented by Leslie Williams, Election Administration Manager. Ms. Williams provided SBE with a memorandum, an abstract of results, and two copies of the certificate. Chairman Alcorn asked if there were any problems or concerns with the election. Ms. Williams said there were not. Chairman Alcorn read the results for the election for the Clerk of Court for Prince William County, Manassas Park City, and Manassas City. Jacqueline C. Smith received 13,908 votes. Jackson Hunter Miller received 11,877 votes. There were 9 write-in votes. Jacqueline C. Smith won the election. Chairman Alcorn motioned to certify the results, and Vice Chair Wheeler seconded the motion. The motion passed.

Chairman Alcorn asked if there were any lessons learned from this special election. Commissioner Cortés noted the election ran very smoothly. It was provided Prince William County imported data of election results into VERIS for the first time, which will hopefully ease the burden of providing election results and help avoid data entry mistakes. Chairman Wheeler asked Michelle White, Prince William County General Registrar, to comment. Ms. White said election night reporting is an improvement the locality has

wanted to pursue. Ms. White stated the locality was pleased with the results, and that they look forward to continue improving their reporting.

The next order of business was reviewing campaign finance complaints, presented by Elizabeth Howard, Deputy Commissioner. Chairman Alcorn requested to hear the complaints from the candidates who were present to begin. Chairman Alcorn then asked for memorandums and staff analysis for each complaint, and Deputy Commissioner Howard informed that ELECT decided not to include them in the Working Papers. The Deputy Commissioner said ELECT chose not to provide memos or staff analysis, as they could indicate legal advice, which the Department is not authorized to give. Chairman Alcorn pointed out the staff provided objective analysis in the past, and would like to continue receiving it. The Chairman asked if it was a staff decision not to provide analysis. Deputy Commissioner Howard said yes. Chairman Alcorn reiterated that the Board would like to receive staff input, and said if they could not provide it, SBE would like to receive the Working Papers sooner, so as to have more time to review them. Chairman Alcorn noted SBE did not receive the Working Papers or agenda until Friday afternoon. Vice Chair Wheeler and Secretary McAllister agreed.

The first campaign finance complaint heard was against Brandon W. Howard, candidate for City Council in Hopewell City. Mr. Howard's alleged violation was the inclusion of federal candidates Donald Trump and Mike Pence on Mr. Howard's sign, when it was not indicated on the sign that Mr. Trump or Mr. Pence paid for or authorized the use of their names and logos. Deputy Commissioner Howard noted that the disclaimer included does not violate state law, but the inclusion of federal candidates, who are not included in the disclaimer, may violate state law. Mr. Howard stated that he and Mike Wade, a federal candidate who was included on the sign and in the disclaimer, talked to the Republican Party of Virginia. The Republican Party of Virginia stated that Mr. Trump declared all Virginia Republican candidates may use his name and logo on their materials. Mr. Howard stated they produced the sign after consulting the party, and included the sign in his campaign finance reports.

Chairman Alcorn asked Anna Birkenheier, Assistant Attorney General, for legal counsel. Ms. Birkenheier pointed to §24.2-956 in the Code of Virginia, and noted that federal candidates may not have to comply with the section, but state and local candidates

72.

do. Secretary McAllister asked about SBE's past practices on this issue, and Deputy Commissioner Howard noted that in the past, they did not require federal disclaimers. Vice Chair Wheeler added that the State Board of Elections of Virginia does not govern federal campaign finance issues, and noted the state candidates met the disclosure and paid for statement requirements. Secretary McAllister suggested tabling the discussion until Ms. Birkenheier could research the decision to give SBE recommendations, and Ms. Birkenheier agreed. After more discussion of the code, Chairman Alcorn suggested dismissing the fines, as the Board did not find that Mr. Howard had violated the code as a statewide candidate. The Chairman moved to dismiss the complaint with no fines. Vice Chair Wheeler seconded the motion, and the motion passed.

The next complaint was against Glenn Perry, Sr., candidate for Sheriff. Mr. Perry recounted that he paid for an ad in a booklet for a festival. The festival designed and printed the ad, and Mr. Perry did not see the ad until it ran. The ad ran without the required "paid for and authorized by" statement. Vice Chair Wheeler clarified that Mr. Perry paid for the ad, and then asked if there are any other ads for Mr. Perry's campaign circulating the community. Mr. Perry said no.

SBE asked Ms. Birkenheier for counsel. Ms. Birkenheier said she preferred not to answer without having more time to research the case. Chairman Alcorn agreed the issue should be tabled until counsel had more time to research. Vice Chair Wheeler then asked for clarification on when Mr. Perry was on the ballot to be Sheriff, and when the ad in question ran. Mr. Perry said the ad ran in 2016. He was planning on running in 2017, but had not yet submitted his paperwork. Vice Chair Wheeler moved to dismiss the case as Mr. Perry was not yet on the ballot, and had not even submitted paperwork. Chairman Alcorn asked if the time between the ad and Mr. Perry submitted to be a candidate mattered. Vice Chair Wheeler noted that because Mr. Perry had not submitted his paperwork, he was not a candidate at the time of the ad violation, and could not violate the law as a candidate. Vice Chair Wheeler asked when the complaint was first received by ELECT. Deputy Commissioner replied that it was received on Monday, February 27, 2017. Vice Chair Wheeler noted that the receipt date was 10 months after the ad in question ran.

Vice Chair Wheeler moved to dismiss the violation with no fines. Secretary McAllister seconded the motion. The motion passed 2 to 1, with Chairman Alcorn in the

minority. SBE still asked for counsel and for ELECT to update their candidate guidance, so it is more clear to candidates in the future.

Secretary McAllister mentioned the importance of receiving the Working Papers and other information earlier, and the importance of a memo; with these, SBE can reach decisions quicker. Deputy Commissioner Howard noted that SBE did not set the date for the meeting until 10 days before the meeting, so the Department had little time in pulling the materials together. The Deputy Commissioner also noted the majority of the issues discussed so far were legal, as Ms. Birkenheier was needed to provide counsel throughout the meeting; the Deputy Commissioner noted the Department cannot give legal guidance, and as ELECT is not an investigatory agency.

Chairman Alcorn noticed the complaint against Brandon W. Howard was received in April of 2016, and that ELECT had 12 months between receipt and presentation to provide analysis. The Chairman also noted SBE asked for analysis on the case earlier, and noted the Department can give objective analysis, such as applicable code sections and past SBE decisions on similar violations.

Vice Chair Wheeler agreed, noting how a breach of the code before an election is important for the Board, and for voters, to know. The Vice Chair asked to receive allegations of campaign finance violations when they are first received by the Department. Deputy Commissioner stated that historically the Board did not discuss campaign finance issues until after the election. Chairman Alcorn and Vice Chair Wheeler both challenged the statement. Commissioner Cortés stated SBE gave ELECT no direction that the Board wanted to hear complaints before the election. Chairman Alcorn challenged that as well.

Commissioner Cortés noted the Department gives acknowledgement of the receipt of a complaint, and notice to the campaign allegedly in violation—a system that was instituted in 2016. Vice Chair Wheeler reiterated the request to receive complaints when they are received by ELECT.

The remaining campaign finance complaints—including complaints against Joe Lindsey for Senate; Awareness Manassas PAC (absent due to a family emergency); the Daniels Committee; Ellen Robertson; Friends of Candidate Coleman; Hassan J. Fountain for 3<sup>rd</sup> District; Singh for Mayor; Joe Morrissey; and Linwood W. Johnson—would be tabled until the next meeting, as the candidates were not present. Chairman Alcorn

requested objective analysis before the meeting, including past SBE decisions. If the
Department cannot provide analysis, Chairman Alcorn requested to receive campaign
finance complaints a week in advance so SBE can research and receive counsel before the
meeting.

Chairman Alcorn then motioned for a 10 minute recess. Vice Chair Wheeler seconded the motion, and the motion passed.

The meeting reconvened at 12:20PM. The next order of business was the certification of the Hart Verity 2.0 voting systems, pursuant to the *State Certification of Voting Systems: Requirements and Procedures*, presented by Eugene Burton, Voting Equipment Coordinator. Mr. Burton provided background on the voting systems, and provided the test report and Election Assistance Commission (EAC) certificate to Board members. Mr. Burton recommended SBE move to certify the system, as it has completed state certification. Vice Chair Wheeler asked how many localities use the Hart Verity System, and Mr. Burton did not know the exact number, but estimated 10. The Vice Chair asked if any localities had problems with the system, and Mr. Burton responded they did not, and noted the City of Fairfax gave it a letter of recommendation. Chairman Alcorn moved to certify. Vice Chair Wheeler seconded the motion, and the motion passed unanimously.

The next order of business was the certification of the electronic pollbook system (EPB), presented by Matthew Davis, the Chief Information Officer. Mr. Davis noted in November, SBE directed the Department to make some improvements on the EPB. Chairman Alcorn asked what changes were made.

Mr. Davis noted voter usability improvements, including the addition of two additional audits. Chairman Alcorn recounted some concerns Chesterfield County had with the system, and that SBE asked for feedback from Chesterfield County. Mr. Davis noted that the Chesterfield County General Registrar had retired, so no feedback from the locality was available. Commissioner Cortés noted that ELECT made all changes required by the code, and reached out to other General Registrars for feedback to enhance the system and fulfill the requirements. Vice Chair Wheeler clarified the pollbook was tested in Chesterfield and found inadequate, and requested the EPB go back to Chesterfield to be sure all concerns were addressed and fixed. The Vice Chair then asked the start date for

the development of this EPB, recalling it to be 4 years ago. Mr. Davis said coding for the equipment started in March of 2016. Vice Chair Wheeler stated she would like Chesterfield's feedback, even though the previous Registrar would not be present.

Jason Corwin, the Mecklenburg County General Registrar, addressed the Board and said he worked with the EPB since its first stage, and kept in regular contact with the previous Chesterfield GR. Mr. Corwin attempted to hack the EPB to test for security, and noted that he was unable to change the accuracy or reliability of the machine in his attempt to do so. Mr. Corwin also noted some connectivity issues, but found the machine worked well otherwise. Vice Chair Wheeler thanked Mr. Corwin, but reiterated the request to return the machine to Chesterfield for testing. Chairman Alcorn agreed.

Secretary McAllister asked if there was a downside to not certifying the EBP during this meeting. Commissioner Cortés noted that the contract with the vendor would end on July 1<sup>st</sup>, and if localities would like to use the EPB past that date, the locality would have to pay for the contracting and licensing, or use another vendor. Commissioner Cortés asked if SBE would certify the EPB with all of the improvements and feedback from other localities. Chairman Alcorn reiterated the request to send the machine back to Chesterfield to be sure all of the problems were fixed.

Mr. Davis noted that Chesterfield tested the machine in office, not during an election, and also noted ELECT received positive feedback from Chesterfield during the testing. Mr. Davis said he then received an email from Chesterfield about usability issues, including font size. Commissioner Cortés asked Mr. Corwin to certify if the EPB met the Code requirements. Mr. Corwin said yes, and that issues including font sized were resolved, but reiterated the connectivity issue.

Mr. Davis then described the differences between another EPB system and the one in question, highlighting the simplicity in the new system. Chairman Alcorn asked for clarification on the connectivity issue mentioned by Mr. Corwin, and Mr. Davis explained that the machine may take longer to sync if disconnected, but will ultimately reconnect and work properly. Secretary McAllister asked when the connectivity issue would be resolved. Mr. Davis replied ELECT just produced a patch that will hopefully resolve the issue.

Chairman Alcorn noted that if the Chesterfield concerns were mostly concerning user-friendly interface, and that if those issues were addressed, then the EPB should be

certified. Vice Chair Wheeler reiterated the request to send the EPB back to Chesterfield for a report. Chairman Alcorn motioned for the issue to be tabled until ELECT provides a report that the connectivity issue has been resolved, and until Chesterfield County tests the machine and finds their concerns have been addressed and fixed. Vice Chair Wheeler seconded the motion, and the motion passed.

The next order of business was an update on voter list maintenance, presented by Commissioner Cortés. The Commissioner reported ELECT completed the bi-annual list maintenance process. It was reported that since January 1, 2017, 22,574 deceased individuals were removed from the voter rolls; 2,029 individuals were removed for felony convictions; 976 individuals were cancelled by request; 5,128 individuals were removed upon receipt of a notice they moved out of state; 696 individuals self-identified as non-citizens; and 195 individuals were removed under mental adjudication by the courts. Commissioner Cortés reported 5,198,319 active voters and 218,389 inactive voters in the Commonwealth of Virginia.

Chairman Alcorn requested an update on the non-citizen and duplicate registration problems addressed in the April meeting. Commissioner Cortés reported that majority of duplicate registration submissions were coming from Department of Motor Vehicles (DMV) related activity. The Commissioner reported ELECT is working with DMV to find a solution, and that the Center for Civic Design is assisting to solve the duplicate registration issue.

Chairman Alcorn then requested an update on non-citizen data. Commissioner Cortés noted some problems in the past with ELECT's capacity and servers during the online registration process during the November 2016 general election. ELECT went back to find if any processes were broken, and found some issues with non-citizen data not processing from the DMV in a timely manner. The Commissioner reported they are currently working on repairing any issues, and searching for other issues, with the DMV.

Vice Chair Wheeler asked for background on the Center for Civic Design. Commissioner Cortés stated the Center was present at ELECT's annual training in 2016, and that the center helps to simplify information for voters to make it easily understandable and hopefully increase the number of successful voter experiences.

Vice Chair Wheeler asked about the delay in non-citizen data from DMV mentioned by Commissioner Cortés, and asked how the DMV identifies non-citizens. Commissioner Cortés clarified that identification is through self-identification from the voter. Vice Chair Wheeler asked ideally how often the DMV should transfer this information. The Commissioner responded ideally the information would be provided with the transactions. Vice Chair Wheeler asked for clarification on why the information did not get relayed to VERIS properly. Commissioner Cortés answered the previous paper-based system DMV had in place, which has now been replaced with an electronic transaction caused delays, and errors in VERIS being investigated may have played a role. Vice Chair Wheeler asked how many self-identified non-citizens ELECT received. Commissioner Cortés responded there were 696 removed from voter rolls since January. Vice Chair Wheeler then asked for a breakdown by locality across Virginia to know how many self-identified non-citizen transactions there were in each locality. Commissioner Cortés responded that none of the existing reports give that information.

Vice Chair Wheeler asked if ELECT knows how many of the people removed from voter rolls in January that self-identified as non-citizen voted in the 2016 November election. The Commissioner responded ELECT does not. Vice Chair Wheeler then inquired as to the process at the DMV if an individual self-identifies as non-citizen, and recalled issues with individuals being unable to do transactions other than voter registration on DMV kiosks if identified as non-citizen, which often led them to mark themselves as citizens in order to be able to complete their other tasks. Commissioner Cortés informed of DMV training that trains employees to help with kiosk issues, including those mentioned, and customer service representatives are prepared to assist. Commissioner Cortés reminded SBE that voter registration is an individual-initiated process.

The discussion then opened to public comment. Jake Washburne, Albemarle County General Registrar, discussed concerns about the VERIS duplicates, and suggested possible solutions. Mr. Washburne expressed concern that VERIS seems to only have the capability to catch duplicate addresses, and that voters may keep resubmitting registrations online because there aren't instantaneous updates on the online citizen portal which may cause voters to think their request did not process, leading them to resubmit. Having VERIS recognize duplicates by first names, last names, or social security numbers may

help reduce the number of duplicate registrations localities are seeing. Mr. Washburne suggested gathering a group of knowledgeable General Registrars to brainstorm ideas to fix the issue.

Cameron Sasnett, Fairfax County General Registrar, spoke next, with concerns about the SBE minutes. Mr. Sasnett expressed concern that the minutes from previous SBE meetings do not accurately reflect the conversations held during public comment, and noted if transcripts or the audio files from the meetings will not posted, that the minutes need to fully and accurately reflect public comment. Mr. Sasnett noted his support of the liaison process, but also noted a lack of response from Fairfax County's liaison, and difficulties with the tone some written message conveyed to the General Registrars in mass e-mails recently, reminding General Registrars of their statutory obligations that read as almost threatening. Mr. Sasnett suggested leveraging the liaison process better, notably with the communication of upcoming deadlines.

Mr. Sasnett then discussed non-citizen data. Mr. Sasnett reported that in March, Fairfax County identified a total of 299 self-identified non-citizens, that they then contacted. Mr. Sasnett stated 150 contacted the locality and confirmed their citizenship status. Mr. Sasnett claimed data from those numbers showed ¾ of those people did vote in the November election. Mr. Sasnett also noted that there were then 25% of the non-citizens identified who did not respond to confirm their citizenship status, and noted how important this issue is to address.

Mr. Sasnett also discussed the duplicate registration issue. The National Voter Registration Act (NVRA) statistics report, which identifies the source of every document coming into the Registrar's office, that reported data from January 1, 2017 to April 20, 2017, showed 99,000 transactions. The locality statistics report, which tells the Registrars what those transactions actually are (e.g. address changes, new registrations, etc.), only showed 32,000 actual transactions. Mr. Sasnett concluded that those reports reflected about 67,000 reports missing, which may be duplicate registrations, discarded registrations that were incomplete, or something else. Mr. Sasnett noted this means about two-thirds of their reports reflect bad information. Mr. Sasnett reported he is in discussion with Mr. Davis at ELECT to see how reporting can be improved for efficiency and accuracy. Mr.

Sasnett also asked SBE to use this opportunity to encourage the increase of efficiency and accuracy in reports.

Mr. Sasnett then asked Commissioner Cortés if ELECT will be participating in the ERIC mailing program that notifies eligible but unregistered individuals of their eligibility. Commissioner Cortés confirmed that ELECT will be participating, and will continue to participate in the future.

Mr. Sasnett also addressed the non-citizen issue, noting that the dates individuals self-identified as non-citizen corresponded with their registration dates at the DMV. Mr. Sasnett clarified this means an individual could indicate they were not citizens, but then be offered the opportunity to vote. Mr. Sasnett encouraged ELECT, the Center for Civic Design, and DMV to thoroughly examine and fix the issue.

Commissioner Cortés then asked Mr. Davis to come in front of the Board to explain the data that is present in VERIS. Mr. Davis stated that the NVRA statistics report cited by Mr. Sasnett does not reflect a one for one count of transaction per individual—take, for example, an individual who submits a voter registration form to change their address in a manner that would also change their locality. Mr. Davis stated that that transaction would show up as two transactions in the NVRA report, and that this would account for the difference in numbers between the different reports. Mr. Davis stated the NVRA report and the locality statistics report will not match up because of this, and reiterated Mr. Sasnett's claim of working together to produce more accurate and efficient reporting.

Commissioner Cortés added that using reports in this way can lead Registrars or the public to believe that something is a problem, when it really is just a difference in how the system counts transactions. Chairman Alcorn agreed and encouraged ELECT to get out information regarding how the reports work so as to avoid confusion for the public and for localities.

Michelle White, the Prince William County General Registrar, then spoke. Ms. White stated the ELECT website, including the citizen portal, needs to be more understandable to the voter. Ms. White noted that it should be more clear to the voter what address they are registered at, when their information was last updated, and how they last updated their information (e.g. DMV, the online citizen portal, etc.). Ms. White also requested the website inform the voter how long it will take to receive their registration by

mail. Ms. White suggested a way to improve the portal would be to consult with the 339 elections community for feedback on how to make the website more voter and user 340 341 friendly. 342 Robin Lind, the Secretary of the Goochland Electoral Board, then spoke. Mr. Lind referred to an email sent to SBE, including the General Registrar/Electoral Board (GREB) 343 Workgroup report, and asked for a response from the Board. Mr. Lind noted the report 344 was sent in January, with no response, and requested a response to the report from the 345 346 Board as soon as possible. Mr. Lind reviewed some of the information in the report, including questions regarding sequestering funding, evaluating ELECT's service to the 347 elections community, and SBE response to GREB requests. Mr. Lind also noted emailing 348 both the Board and Commissioner Cortés in late April with another copy of the report, with 349 no response. Chairman Alcorn apologized for the delay in response, and agreed to include 350 351 the GREB report on the agenda for the next SBE meeting. The Chairman further asked to discuss how the Board could best support the GREB workgroup in the next SBE meeting. 352 353 Vice Chair Wheeler then reminded those in attendance of a survey on printing ballots, and asked that the survey be answered and returned. The Vice Chair noted ELECT 354 will review the survey to be sure each locality has ordered a sufficient number of ballots, 355 356 and highlighted the importance of filling it out. Vice Chair Wheeler also reminded localities that the upcoming June primary will be a dual primary, and asked for ideas on 357 how the officers of election and localities can make clear to voters that voters will have to 358 declare what party ballot they would like to receive in order to vote. 359 360 Chairman Alcorn then motioned to adjourn the meeting. Vice Chair Wheeler and 361 Secretary McAllister both seconded the motion. 362 Chairman Alcorn then adjourned the meeting. 363 Secretary McAllister both seconded the motion.

367

364

365

366

368369

Singular Po. An allister

Chairman Alcorn then adjourned the meeting.

date and time of its next meeting.

The meeting was adjorned at approximately 2:20PM. The Board did not set the

370	Secretary
371	
372	Ja3/62
373	Chair
374	
375	Claro Colle Wheel to
376	Vice Chair