

1 MINUTES

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3 The State Board of Elections board meeting was held on Wednesday, August 15,
4 in Senate Room 3 of the Virginia State Capitol, Richmond, Virginia. In attendance: James
5 Alcorn, Chairman, Clara Belle Wheeler, Vice Chair, and Singleton McAllister, Secretary,
6 represented the State Board of Elections (“The Board”). On behalf of the Department of
7 Elections (“ELECT”) was Jessica Bowman, Deputy Commissioner. In attendance,
8 representing the Office of the Attorney General (“OAG”), was Anna Birkenheier, Assistant
9 Attorney General. Chairman Alcorn called the meeting to order at 11:51 AM.

10 Chairman Alcorn stated the Board was going to add an agenda item, as there were
11 questions about petitions and litigation about petitions that the Board needed to receive
12 counsel on in closed session. The Chairman said the Board would go into closed session
13 at the end of the meeting.

14 The first order of business was the Commissioner’s report. Because Commissioner
15 Piper was unable to attend, Deputy Commissioner Bowman presented the report. Deputy
16 Commissioner Bowman introduced new ELECT staff members, including Shihan
17 Wijeyeratne, Data Analyst; and Dave Simmons, Chief Information Officer. The Deputy
18 Commissioner reported that Isle of Wight County had a special election for Sheriff on July
19 24, which had no issues. Deputy Commissioner Bowman told the Board that ELECT
20 helped the City of Fairfax in the Commonwealth’s first post-election risk-limiting audit
21 (RLA), and said that James Heo, Confidential Policy Advisor at ELECT, would be
22 presenting a summary to the Board during the meeting; the full report would be presented
23 to the Board during the September meeting. The Deputy Commissioner thanked Brenda
24 Cabrera, City of Fairfax General Registrar/Director of Elections (“GR/DOE”), and the City
25 of Fairfax Electoral Board (EB) for the hours of work put into conducting the audit. Deputy
26 Commissioner Bowman shared that the annual Voter Registrar Association of Virginia
27 (VRAV) meeting took place the previous week, and that the Commissioner and Deputy
28 Commissioner were invited to attend. Vice Chair Wheeler would also be attending. The
29 Deputy Commissioner also shared that the deadline for all local candidates, special
30 elections, and local referendums was Friday, August 17.

31 The next order of business was the approval of minutes. Vice Chair Wheeler
32 pointed out two typos for correction. The Vice Chair asked if the minutes from the July
33 20 Board meeting were provided in the working papers, and ELECT staff confirmed that
34 they were. The Vice Chair asked if the Board could wait to approve the minutes until she
35 had time to review the July 20 minutes, having overlooked them when she received the
36 working papers. Secretary McAllister moved *the Board approve the minutes from June 25*
37 *and July 20, with the amendments the Board discussed.* Chairman Alcorn voted yea.
38 Secretary McAllister voted yea. Vice Chair Wheeler abstained from voting, as she had not
39 had time to review the July 20 minutes. The motion passed, 2:0:1.

40 The next order of business was a presentation from the Virginia Elections
41 Benchmark Index Workgroup, presented by the Workgroup's Chair, Allison Robbins,
42 Wise County GR/DOE. Ms. Robbins said the Workgroup met three times since its
43 formation; the first meeting was public and the other two meetings were held via
44 conference calls on July 24 and August 10. Ms. Robbins said the Workgroup realized it
45 fell under the legal definition of a public body, so stated that all future meetings would be
46 subject to open meeting rules. Using the resolution passed by the Board, the Workgroup
47 identified the main elements for review, and decided it would determine what duties and
48 responsibilities were given to ELECT, GRs, and EBs in the Code of Virginia, and then
49 assess appropriate index measures for each. The Workgroup would collect data for each
50 of the index measures, and allow for the development of benchmarks. The Workgroup
51 planned to create a system for public recognition for good work, and take into account all
52 the resources different localities from different locations used when conducting elections.
53 Ms. Robbins said the Workgroup was committed to ensuring that the Workgroup would
54 not be a further burden to the already limited resources of the localities, and was seeking
55 to highlight the need for additional funding, staffing, and resources for local election
56 offices.

57 Chairman Alcorn shared his enthusiasm for the Workgroup's proposal, and stated
58 the Workgroup was an opportunity to highlight areas where there was great success, but
59 also where there could be opportunities for improvement. The Chairman said the
60 opportunities for improvement should be assessed in a collegiate, rather than in a punitive,
61 way. Chairman Alcorn recommended the Workgroup collect data and use it to compare

62 how Virginia conducted elections in reference to other states. Vice Chair Wheeler shared
63 the Chairman’s enthusiasm, and urged the Workgroup to remain as objective as possible.
64 Secretary McAllister asked Ms. Robbins what the Workgroup’s timeline was. Ms. Robbins
65 said the Workgroup was waiting to see how to best proceed with future meetings in
66 compliance with open meeting laws, but that the Workgroup was required, under the
67 resolution, to present the Board a final project in 2019. Ms. Robbins said the Workgroup
68 would likely give the Board an update after the November elections, with actual data.

69 Secretary McAllister asked how many members of the Workgroup there were. Ms.
70 Robbins stated there were 9, including the Commissioner and Mr. Wijeyeratne. The
71 Secretary asked if the Workgroup’s members were representative of the different localities
72 geographically across the state, and Ms. Robbins said they were. Chairman Alcorn said
73 that a guiding principle is that most people in elections is finding a balance between access
74 and security. The Chairman recommended the Workgroup keep that principle in mind
75 during their work.

76 The next order of business was a request to use approve voting systems in the City
77 of Petersburg, pursuant to §24.2-630, presented by Eugene Burton, Voting Technology
78 Coordinator. Mr. Burton said the City of Petersburg requested ELECT to allow the
79 localities to use the ES&S DS200 and ExpressVote in the November 6, 2018 General
80 Election. Mr. Burton said the City planned to ultimately upgrade the entire locality with
81 this voting equipment; the City was seeing a heavy write-in campaign in one of its
82 precincts, and using the ES&S DS200 and ExpressVote would allow the locality to have
83 more expedited reporting on election night. Chairman Alcorn said the voting equipment
84 was already certified and had gone through testing. The Chairman moved *the Board*
85 *approve the use of certified optical scan voting systems in the City of Petersburg for the*
86 *November 6, 2018 General Election pursuant to Code of Virginia §24.2-630 Use of*
87 *Approved Voting Systems.* Secretary McAllister seconded the motion, and the motion
88 passed unanimously.

89 The next order of business was to review the Stand By Your Ad (“SBYA”) policy,
90 presented by Arielle A. Schneider, ELECT Policy Analyst. Ms. Schneider informed the
91 Board that the policy was the same policy presented to the Board at previous meetings.
92 Ms. Schneider reviewed the changes made since the last presentation. Ms. Schneider

93 informed the Board that the updated definition of “express advocacy,” which was approved
94 at a previous meeting, was going to be sent to the Governor’s office for review on the
95 process to creating a regulation. Other changes included a clarification on what constituted
96 an “occurrence,” clarifying that penalties are assessed cumulatively to the number of
97 violations per election cycle; and an extension on the timeline by which an individual
98 would need to request a continuance. Chairman Alcorn said the policy helps provide
99 consistency to how the Board handles complaints, and thanked Ms. Schneider.

100 Vice Chair Wheeler asked for clarification on the part of the policy about
101 continuance. The Vice Chair asked if only the Chairman could grant continuance for
102 candidates. Ms. Schneider said yes, but said that the Chairman would likely inform the
103 other Board members upon doing so. Vice Chair Wheeler asked what would happen if the
104 Chairman didn’t grant continuance, and Ms. Schneider explained that the matter would
105 then be heard at the next meeting, rather than be deferred as it would be if the Chairman
106 granted continuance. Vice Chair Wheeler asked if that point needed to be made clear in
107 the policy. Ms. Schneider directed the Board to the fourth point in the policy, which stated
108 that “The Board may, for good cause shown, waive any of the provisions of this policy if,
109 in the judgement of the Board, the waiver will not prejudice the rights of any party and is
110 not otherwise prohibited by law. Any waiver shall be documented in the official record of
111 the meeting for continuity. In any conflict within this policy between general and specific
112 provisions, the specific provisions shall govern.”

113 Vice Chair Wheeler voiced concern that all nuances weren’t fully worked out in the
114 development of the policy. The Vice Chair said it was important all of these issues were
115 heard before the corresponding election happened, so that voters were aware if candidates
116 violated SBYA. Ms. Schneider acknowledged the Vice Chair’s concerns, and said that no
117 more than one continuance could be granted for any circumstance so that continuances
118 could not be used as delay tactics. Ms. Schneider said if the Board wanted, a provision
119 could be added that any decision the Chairman made in regard to continuances would be
120 provided to all members of the Board within one week of his determination. Ms. Schneider
121 agreed to add this provision into the policy, including that the Chairman would forward it
122 to the other members of the Board, and that the granting of continuance would be noted in
123 minutes.

124 Secretary McAllister asked if there could be guidelines or general language around
125 what reasons to grant a continuance would be. Ms. Schneider suggested that memos or
126 documents could be developed for the Board to refer to while adjudicating these matters.
127 Vice Chair Wheeler asked if the Board could table voting on the policy until each member
128 could talk to ELECT staff and counsel to make minor changes. Secretary McAllister said
129 she did not have a problem with voting on the policy, if documents or memos discussed
130 earlier were developed. Chairman Alcorn agreed with the Secretary, stating he would like
131 to get guidance out to the public; the Board could then make amendments as needed in the
132 future. The Chairman said it was important to get some guidance out to educate candidates
133 and the public. Ms. Schneider said this was especially important as the next Board meeting
134 in September would include a number of SBYA hearings. Vice Chair Wheeler stated that
135 if the Board held off until the September meeting to approve the policy, the alterations and
136 changes made would give the Board a completed policy to use. Chairman Alcorn said he
137 didn't think there were changes that needed to be made; the Secretary just asked for
138 development of clearer guidance regarding good and sufficient cause, which transcends the
139 purpose of the presented policy. Chairman Alcorn moved *the Board adopt SBE Policy*
140 *2018-001 to govern Stand By Your Ad (SBYA) hearings*. Secretary McAllister seconded
141 the motion. Chairman Alcorn and Secretary McAllister voted yea; Vice Chair Wheeler
142 voted nay. The motion passed 2:1.

143 The next order of business was a report on risk-limiting audits (“RLAs”), presented
144 by James Heo, Confidential Policy Advisor for ELECT. Mr. Heo said the presentation
145 would be an overview of RLAs; Mr. Heo would give a more comprehensive report to the
146 Board at the next meeting.

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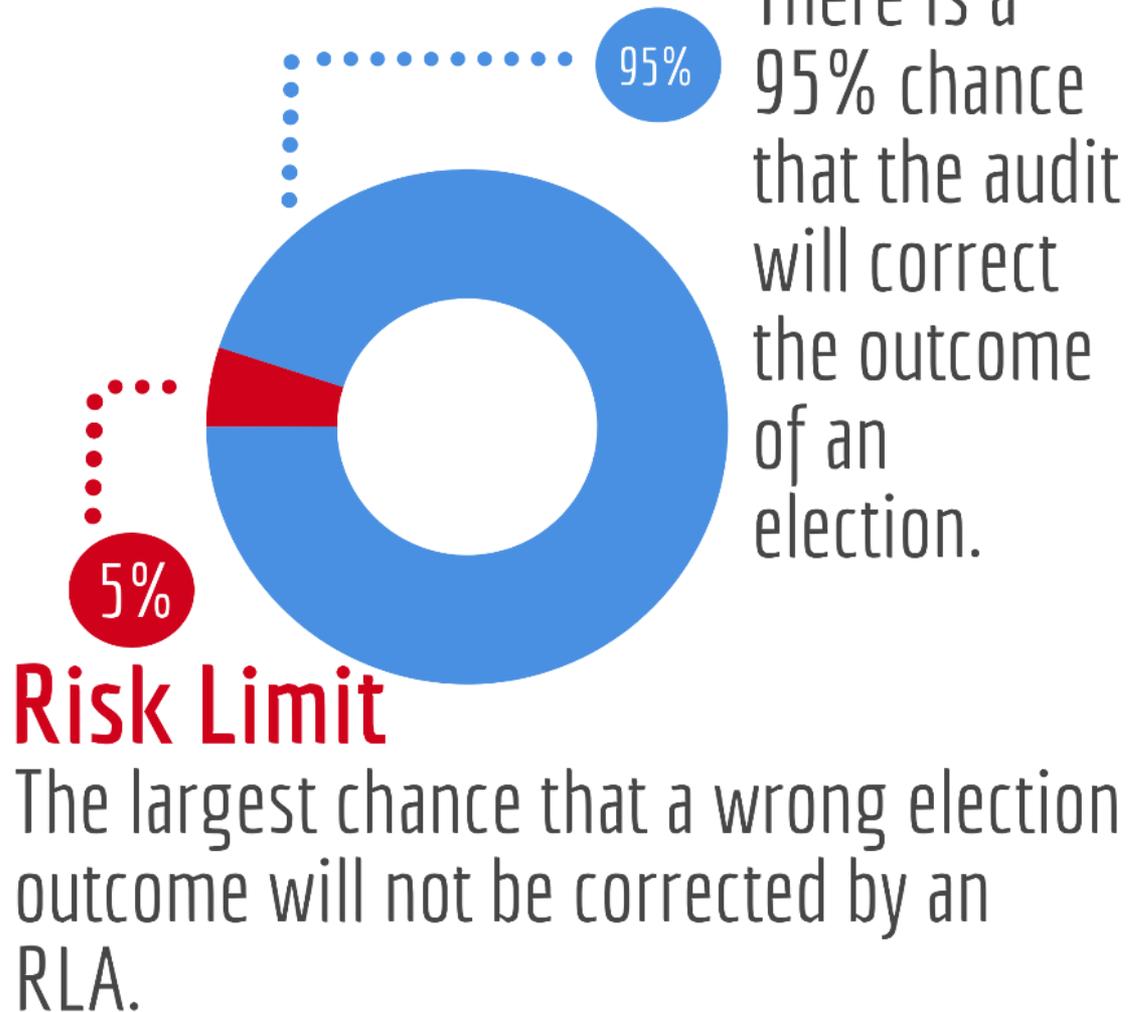
★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

City of Fairfax Post-Election, Risk-Limiting Audit Pilot



What is an RLA?

An audit that provides strong statistical evidence that the election outcome is right, and has a high probability of correcting a wrong outcome.



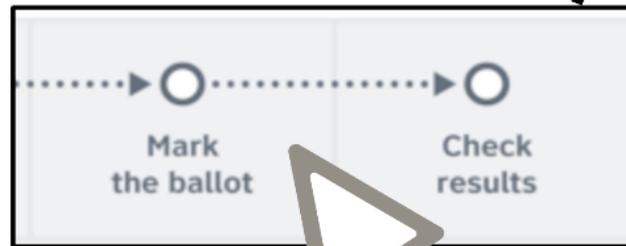
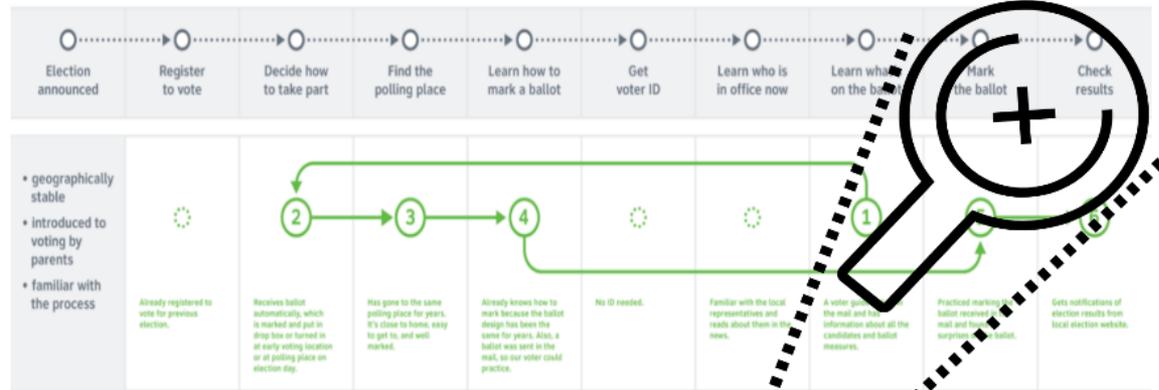


How can RLAs help?

With voter confidence eroding, the elections community needs new tools to reassure the public that they can continue to have faith in the integrity of our elections.

RLAs are a potential tool to promote voter confidence.

Center for Civic Design Election Pathway



?????
**Missing
Feedback Loop**



Why are RLAs Useful?



**Measurable
Success**



**Minimizes
Workload**



**Transparent
Process**



**Third Party
Validation**



**Usable
Data**



Types of RLAs

Comparison



A comparison RLA is based on the blind comparison of the machine's interpretation of ballots and the manual (human) interpretation.

VS

Polling



A polling RLA is similar to an exit poll. In this case, ballots (people) are randomly selected and tabulated (polled).



Comparison of RLA Types

Comparison

- Requires considerably fewer ballots for the audit.
- Audit sample size is not as dependent on election margin.
- Requires less staff.
- Requires voting systems that can produce Cast Vote Records.
- Requires RLA software.
- Requires maintaining ballots in the exact order they are scanned.
- Provides tools for the auditor to correct any errors. Useful for addressing human error.

◀ # of Ballots ▶

◀ Resources ▶

◀ Logistics ▶

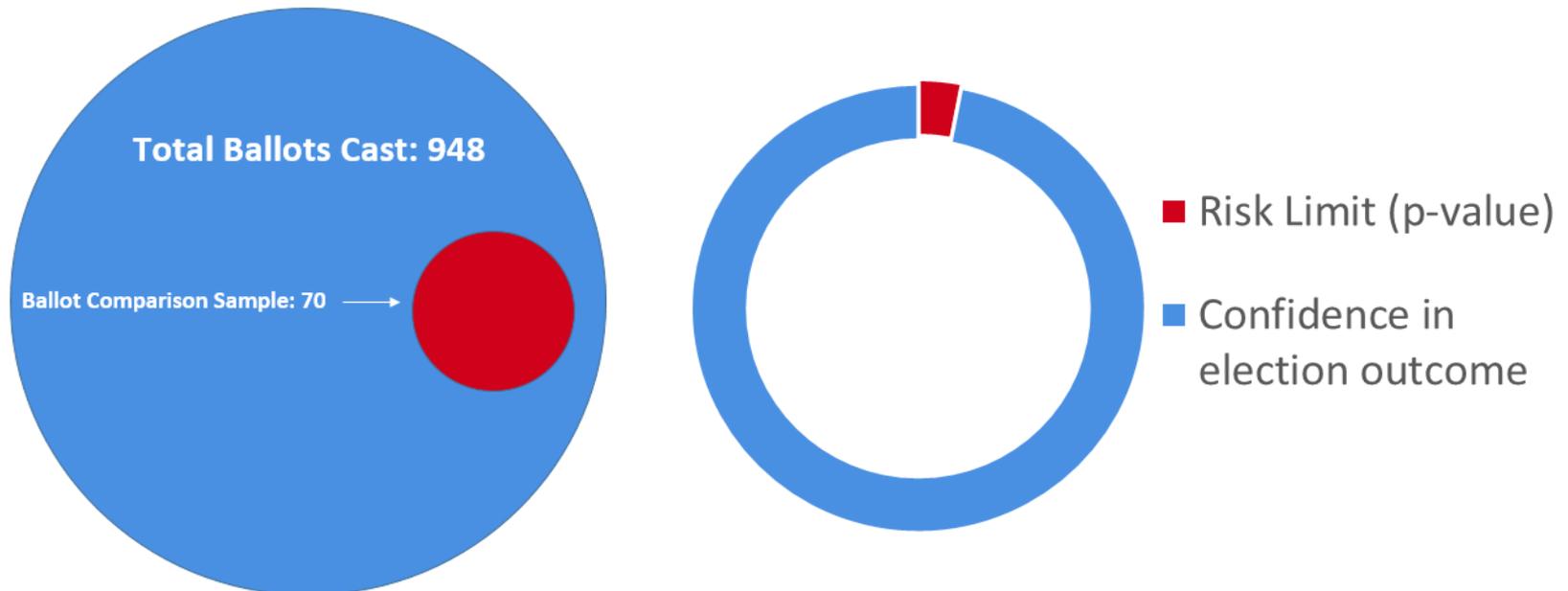
Polling

- Requires considerably larger sample sizes.
- Sample size is heavily dependent upon the election margin.
- Minimal set-up costs.
- Requires more staffing resources.
- Requires no additional equipment or software.
- Requires more time to conduct audits due to larger sample sizes.
- Does not provide the auditor any tools to address errors.



Ballot Comparison Audit

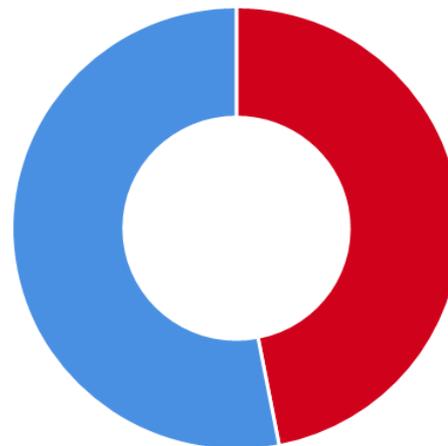
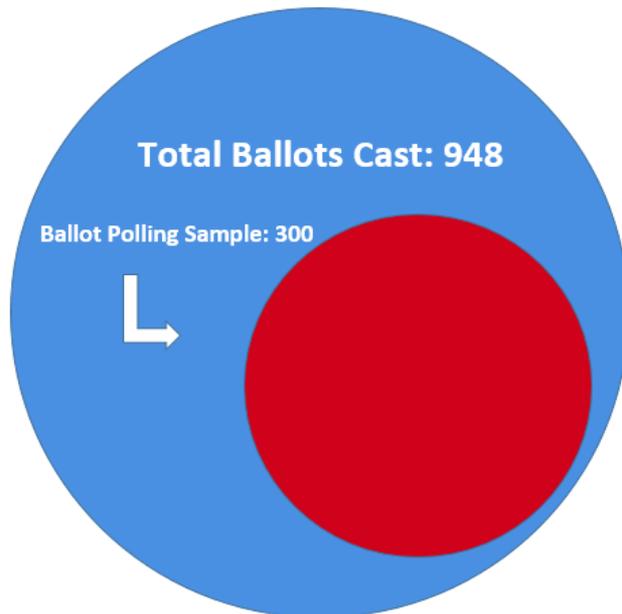
- Established risk limit: 5%
- Sample size: 70 (69 unique ballots)
- Result: p-value [risk limit] of 0.03/3.03%
 - **At least** a 96.97% chance that the audit would have identified an incorrect outcome.





Ballot Polling Audit

- Established risk limit: 10%
- Sample size: 300 (260 unique ballots) *this number includes ballots adjudicated during the ballot comparison audit*
- Result: p-value [risk limit] of .47/47%
 - **At least** a 53% chance that the audit would have identified an incorrect outcome
 - The Risk limit was not satisfied -- in a true RLA, election officials would have selected a second round of sample ballots and completed the process again, repeating until either the risk limit was achieved or it was determined that there was a need to proceed to a full recount.



- Risk Limit (p-value)
- Confidence in election outcome



RLA Pilot Findings

- A RLA audit can provide significant insight into the procedural aspects of Election Day in the polling place.
 - For example, during the audit we found an unaccounted for ballot in a precinct. The ballot was an undervote and we suspect that a voter was accidentally given two ballots that were stuck together.



Response from the Election Community

Determining
Voter Intent

Cost

Procedure manuals

Goals

Frequency

Auditing more than one contest concurrently

Choosing an audit method Policy mandate

Timing
(pre or post certification?)

Logistics

Math behind the audit

Imprinting ballots

Naming convention of precincts, batches, ballots





What's Next?

- **September 20, 2018**
 - ELECT will provide the full report of the RLA to the State Board of Elections.



The Way Ahead

- **Ballot Design and Scanning**
 - Post-Certification imprinting as a means to track ballots.
 - New ballot design requirements for vendors.
- **Larger Locality Testing**
 - City of Fairfax had less than 1000 ballots cast for the audited election, how can the RLA be scaled for larger localities?

154 After the conclusion of the presentation, Vice Chair Wheeler noted that in the past,
155 the Board had approved two RLAs for Prince William County and the City of Norfolk.
156 The Vice Chair asked why ELECT did not use these localities, and instead worked with
157 the City of Fairfax, on the first pilot audit. Mr. Heo explained that the timelines that Prince
158 William and Norfolk proposed was before the bill that required the Commonwealth do
159 post-election RLAs was enacted. Mr. Heo said ELECT was in contact with both localities
160 to do future pilots.

161 The next order of business was a discussion about the recertification of the
162 November 2017 election, presented by Dave Nichols, Director of Election Services at
163 ELECT. During the Board's June 19 meeting, the Board had to recertify the November
164 2017 election due to data errors. The Board asked ELECT to reach out to the three
165 localities that required recertification, so the localities could provide explanations and
166 lessons learned. Mr. Nichols explained that the Nelson County GR/DOE could not be
167 present, but provided a memo; the Amherst County GR/DOE was present; and Brunswick
168 was unable to be present and did not provide a memo. Fran Brown, Amherst GR/DOE,
169 spoke to the Board and said the election officials did not know where the error in data came
170 from, other than from human error. Ms. Brown said election officials, including GR/DOE
171 office staff and the Amherst EB, reviewed the numbers and were unable to find how the
172 error happened. Ms. Brown said the office decided to add another individual to the results
173 team in the hope of reducing the chance for error in a future election. Ms. Brown said the
174 office also hired a full time assistant GR, which should add some much needed support on
175 Election Day.

176 Chairman Alcorn asked how ELECT found the data errors. Mr. Nichols said that
177 ELECT's communication division discovered that some information on ELECT's website
178 did not match. Staff worked together to find where the discrepancies were, pulled reports,
179 and discovered that some localities had changed information in VERIS. Upon discovering
180 this information, staff reached out to the localities to find out what happened. Secretary
181 McAllister asked how big the discrepancies were. Mr. Nichols said in some cases, the
182 discrepancies were as small as one or two votes. There were some data entries, however,
183 that changed numbers from 360 to 36. Chairman Alcorn commended ELECT staff for
184 doing the statistical analysis to find the errors, and asked if the reports that helped find the

185 discrepancies were made a normal part of the certification process. Mr. Nichols said yes.
186 Deputy Chairman Bowman said that statistical analysis is part of the reason that ELECT
187 hired a data analyst, Mr. Wijeyeratne.

188 Vice Chair Wheeler expressed confusion at the situation. The Vice Chair
189 recognized the potential for human error, but asked that localities take canvass seriously
190 and be careful when reporting and interpreting numbers. Chairman Alcorn asked how
191 election officials add up numbers, and asked if it would be helpful for ELECT to look into
192 creating electronic ways to keep track of the numbers. Deputy Commissioner Bowman
193 said that localities have different procedures across the Commonwealth, including some
194 that use electronic recording. The Deputy Commissioner stated that ELECT was working
195 on their election night results process to make it easier for localities to upload and report
196 information. The Vice Chair noted that proper training for election officials was also
197 critical.

198 Walt Latham, York County GR/DOE, spoke to explain part of the frustration of
199 canvass. Mr. Latham explained the number of duties and expectations on local offices
200 during election night, including provisional ballots, running VERIS reports, and result
201 tapes. Mr. Latham noted it can be particularly hard to keep track of everything if a locality
202 did not have the staff or resources needed. Michele White, Prince William County
203 GR/DOE, agreed, and added that public expectation for instant results put on additional
204 pressure that could result in errors. Ms. White stated she would like to see ELECT develop
205 proper data entry for localities, to make data entry and reporting more seamless. Ms. White
206 said her locality used Google Docs while reporting, and credited Jason Corwin for the idea
207 and implementation. Vice Chair Wheeler asked Ms. White how many elections Prince
208 William County used the Google Doc process for, and Ms. White said 2. The Vice Chair
209 asked if there was a reduction in the number of errors, and Ms. White reported that using
210 the process sped up reporting significantly.

211 Robin Lind, Goochland County EB, reminded the Board of a data anomaly from
212 the previous year that the previous ELECT administration did not properly address. Mr.
213 Lind said he discovered a number of anomalies with the results of the November elections,
214 and brought the issue to the previous administration. Mr. Lind stated he found the problems

215 by looking at the results on paper, so commended ELECT hiring Mr. Wijeyeratne to focus
216 on the data.

217 The meeting then opened to public comment. Sue Mosher, a representative from
218 Indivisible Arlington, spoke, and commended ELECT, the GR/DOEs, EBs, and the Board,
219 for the work done to produce fair, accessible, and secure elections. Ms. Mosher asked how
220 ELECT was going to utilize the \$9 million in HAVA funds to protect the upcoming mid-
221 term elections Ms. Mosher asked what the policy of the Board and ELECT was concerning
222 precinct-level paper backups for electronic pollbooks (“EPBs”). Ms. Mosher suggested
223 the elections community focus and concentrate harder on correcting and dis-spelling mis-
224 information surrounding elections and election security, and t get out in front of the
225 problems with accurate and timely information. Chairman Alcorn thanked her, and said
226 that the earlier conversation about the Benchmark Workgroup was one of the ways the
227 community would hope to establish clear procedures to gain voter confidence. Deputy
228 Commissioner Bowman addressed the first question, regarding HAVA funds, stating that
229 ELECT was working with the Election Assistance Commissioner (“EAC”). Once a plan
230 for the funds was finalized, it would be published on ELECT’s website. The Deputy
231 Commissioner addressed the second question, stating that ELECT recommended that all
232 localities print their pollbooks. The Deputy Commissioner further stated that EPBs were
233 not connected to the internet, so were not at threat of being attacked remotely. Mr. Latham
234 addressed the Board, and said he appreciated the working relationship with the Board and
235 ELECT.

236 Vice Chair Wheeler stated that Anna Birkenheier, who served as the Board’s
237 counsel from OAG, would be leaving. The Board thanked Ms. Birkenheier for her work
238 and dedication to ensuring the Board complied with law, and to the safety and fairness of
239 elections.

240 Chairman Alcorn then moved *the Board go into closed session for the purpose of*
241 *discussing certain legal matters requiring the provision of legal advice by legal counsel,*
242 *as authorized by §2.2-3711 section A (7) of the Code of Virginia.* The Chairman requested
243 that Deputy Commissioner Bowman and Mr. Heo join the Board, along with counsel.
244 Secretary McAllister seconded the motion, and the motion passed unanimously. The Board
245 went into closed session at 1:46 P.M.

246 Chairman Alcorn called for a roll call vote to certify that, to the best of each
247 member's knowledge, (1) only such business matters lawfully exempted from open
248 meeting requirements under this chapter and (2) only such business matters as were
249 identified in the motion by which the closed meeting was concerned, were heard, discussed
250 or considered. Chairman Alcorn voted yea. Vice Chair Wheeler voted yea. Secretary
251 McAllister voted yea.

252 Chairman Alcorn then moved to adjourn the meeting. Vice Chair Wheeler
253 seconded the motion, and the motion passed unanimously. The meeting was adjourned at
254 approximately 2:11 PM. The next Board meeting will be on September 20 at 11:30 AM.

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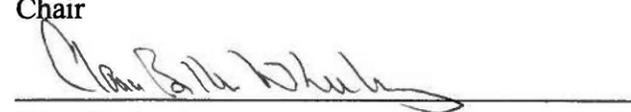
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Secretary


Chair


Vice Chair