

Fairfax VOTER

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Elections Laws Position Update: Part I (con't)

The League of Women Voters of Virginia Election Laws position has many elements that need updating because of changes that have taken place since 2011, when the current Election Laws position was adopted. The Election Laws Study Committee is addressing these elements in two reports in two consecutive years. In June, we published Section A of the first part of the report. This month we publish Sections B, C and D. The entirety of Part I can be found on our website, along with the list of endnotes, the appendices, and graphics. Part II of the study will be published in the January *Voter* but will be available electronically on the website by the beginning of December.

Editor's note: Due to the length of the study, several items we would normally include this month will be published in October.

Calendar

1-30	Virginia Voter Registration Month
4	LWVNCA Board Meeting, 10 a.m., Virtual
7	Fairfax <i>Voter</i> Deadline for October issue
8	FCPS School Year Begins
9-14	LWVFA Unit Meetings
11	LWV-VA Board Meeting, 9 a.m., Virtual
12	LWV-VA Fall Workshops, 9 a.m., Virtual
16	LWVFA Board Meeting, 10 a.m., Virtual
17	Constitution and Citizenship Day
18	In-Person Absentee Voting Begins at Fairfax County Government Center (thru Oct. 31st)
20	Fairfax Cable Access Corp. Community Election, 2929 Eskridge Road, Suite S, Fairfax, VA (tentative)
20-26	Northern Virginia Voter Registration Week
22	National Voter Registration Day; Kick-Off for 4th Annual FCPS High School Voter Registration Challenge
23	8th District Candidate Forum (Tentative)

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Presidents' Message



The election is quickly approaching. And while we all figure out what method we are going to use to safely vote, we thought it would be motivating to focus on the “why we vote.” Recently, we were introduced to a new guide from the Right Question Institute that contemplates this query. This is especially important during this difficult time of COVID when many in our community are struggling to take care of the health and security of their loved ones. It is also a vital subject as we see our faith in our government and democratic system being challenged. Why do we bother to vote? Why should we invest our time and effort in choosing those who will govern for us? As a nation and as individuals, we should think about the many publicly-funded goods and services that are meaningful to us and to others. These services cover a variety of areas, such as housing, income support, healthcare, schools, courts, job support, children’s services, adult education and neighborhood amenities such as street lights, parks and public transportation. Which of these services are a priority to you? Which do you use, maybe even every day? Our elected officials are the ones whom we choose to make important decisions about these services. Are they funded? Are they even available or discontinued? Your vote determines who makes these important decisions on your behalf. Your vote makes a difference in your everyday life and that of others in your community. Your vote matters!

In the League, we seek to protect the right to make these decisions. We seek to register eligible individuals to vote and then help them educate themselves on the topics that matter to them by providing fact-based information. Participating in our democracy makes us a healthier, safer, more educated and more compassionate community.



In this difficult time, many of the tried and true ways we are able to interact with our electorate have become limited. We have learned to be more effective in our use of technology, but, nothing can replace the personal appeal and understanding we can bring by reaching out to those we know. So, we would like to ask you, our League members, to please speak to your neighbors, friends and family and help them understand why it is so important to vote. Each and every one of us brings a unique perspective. Let’s help make everyone’s voice be heard.

Vote!

Nancy and Anu



Fairfax County 24-hr.
Domestic & Sexual Violence Hotline:
703-360-7273; 711 TTY

LWVFA Fairfax VOTER 2020 - 2021

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Spotlight on Voter Services September 2020

By Cindy Kalkwarf, Voter Services Chair

The Voter Services volunteer team focuses on providing educational and informational public services, registering people to vote, getting out the vote, and initiating outreach programs to groups of potential voters. Interested in joining our team? Contact cindy.kalkwarf@lwv-fairfax.org.

Even in our current virtual world, Voter Services has been busy as ever, adapting traditional approaches to a new reality.

- Instead of voter registration tables at farmers markets and other venues, we are displaying voter information signs with a Leaguer there to answer questions. Thank you, Bob Meredith, Sidney Johnson, Arina van Breda, and Mary Valder for regularly volunteering at these markets. See the article below titled *On Opening Day, We Were There*.
- Instead of in-person Candidate Forums, we will hold them virtually using Zoom technology. Thank you to Sue O'Neill, Diana White, and Vicki Balint for organizing these important public information events. Keep an eye on your weekly E-League newsletter for more information.
- Instead of distributing educational materials primarily in public places, we post them on our website, and encourage members to distribute them by email and on social media. Keep an eye on your weekly E-League newsletter for more information.
- Some churches and charities that distribute food are allowing us to put flyers in the bags. See *Beyond the Farmers Markets* below.
- We will again run a postcard campaign to encourage people to vote absentee. Thanks to Janis Linkov-Johnson for leading this effort. Keep an eye on your weekly E-League newsletter for more information.
- We continued our outreach to seniors by sending voter information letters to all senior centers. Thank you to Donna Blake and Sidney Johnson.
- We continued our outreach to healthcare workers throughout the state by providing voting information and encouraging them to vote absentee in order to avoid conflicts with their shifts and potentially long lines at the polls. Thank you, Barbara Boardman.

New Election Laws effective July 1st meant updating voter education materials and creating new material. Our signature publication *Facts for Voters* has been updated for the new election laws (pages 2 and 3) and is available in PDF form on our website, <https://www.lwv-fairfax.org/voter-information>. We also created a Quick Reference Guide for Fairfax Voters highlighting key new laws and election dates. See the article below entitled *New Election Laws: Spread the Word!*

On Opening Day, We Were There

By Sidney Johnson

When the first three farmers markets in Mount Vernon, Reston and Burke opened at the beginning of June, we were ready with a socially distant way of promoting voter registration and applying for absentee ballots. We could stand at the markets' edges. We were not allowed to distribute handouts or forms.

At first, we had the two sandwich boards that usually point the way to our events. Now we have four boards. We designed several signs to put over the original message. The most recent are the bright blue ones in Spanish and English--designed by Meggie Smith, using the LWVUS color palette--and the enlarged flyer about the new election laws designed by Cindy Kalkwarf and Ann and Gary Parham.

Each sign has a QR code that passers-by can capture on their phones while at a distance from the volunteers. The QR code takes users straight to the Virginia Department of

Elections web page. They can take a screen shot of that, go back to find it on their phones, and register or apply for an absentee ballot later. One person stopped at the sign long enough to register online right then and there. Our volunteers, or "sign tenders," are standing by to answer questions. Many voters ask if voting by mail is secure and reliable. Some are unsure about the absentee voting process, either in-person or by mail; they usually vote in-person but want to avoid exposure to COVID-19 this year. The volunteers have fact sheets with accurate and reassuring information provided by the General Registrar and the Virginia Office of Elections.

The signs are located at the homes of Arina van Breda for Mount Vernon, Robert Meredith for Burke, Alexis Haftvani for McLean, and Sidney Johnson for Reston. We need more volunteers to help carry and tend the signs, especially now that more markets and other venues are opening. If you want to sign up, please click on voter registration under the Volunteer heading on our website <https://www.lwv-fairfax.org/voter-registration> or contact Robert Meredith at VoterRegistration@lwv-fairfax.org.

Beyond the Farmers Markets

By Sidney Johnson

Bob Meredith, Mary Valder, and Sherri Gillam have found that churches and charities that distribute food bags will often allow us to put handouts in the bags or will put up posters and flyers in their offices. Usually the food bags are loaded into clients' cars as they drive past, so there is no opportunity for the drivers to stop and look at our sign. The Community of Faith United Church, Western Fairfax Christian Ministries, and Britepaths are among these charities. If there is such a charity in your neighborhood, please contact Bob at VoterRegistration@lww-fairfax.org. He will coordinate with you for delivery of handouts. This is a very effective way of reaching potential voters who need information and encouragement to participate.

New Election Laws: Spread the Word!

By Cindy Kalkwarf

The Virginia General Assembly passed significant new elections laws, many of which went into effect July 1, 2020. You would be surprised at how many voters do not know about these substantial changes. We created a Quick Reference Guide for Fairfax Voters which highlights the new election laws affecting the November 2020 election as well as key election-related dates. Ann and Gary Parham, Nancy Roodberg, Sidney Johnson and I researched and designed this flyer; thank you, team. You can download a PDF version from our website, at <https://www.lww-fairfax.org/voter-information>.

We need you to distribute this information! Think about the groups to which you belong. Send out the flyer and encourage people to vote absentee, with no excuse needed. For example: Faith communities; book and sports clubs; neighborhood civic associations; and PTAs. Print and distribute in your neighborhood and post on bulletin boards at grocery stores. Make posts on social media. Tell your friends and family during your next Zoom call. Send them the flyer and tell them to request an absentee ballot and mail it in early. Send them to VOTE411.org for the Voters' Guide, to apply for an absentee ballot, and more.

KEY ELECTION DATES: Voter Registration Deadline Oct. 13. Absentee-in-Person: Sep. 18 - Oct. 31. Absentee: Apply By Mail or E-mail before Oct. 23. Return ballot to your registrar by 7 PM on Nov. 3 OR return by mail post-marked on or before Nov. 3 and received by your registrar by noon on Nov. 6. Vote in person on Nov. 3 from 6 AM to 7 PM at Assigned Polling Place.

LWVFA Membership Report

NOW is the time for those of us who were members before February 1, 2020, to renew for 2020-2021. If you haven't already done so, please renew your membership as soon as possible. Current rates are \$75 for individuals, \$100 for households, and free for students and life members. A subsidy fund is available for members who have special financial circumstances. The easiest way to renew is by visiting our web site at <https://www.lww-fairfax.org/join>, where you can fill out the membership form online and submit payment through PayPal OR you can print the membership form and send it with a check to the LWVFA office in Annandale. There is an option for automatic online renewal so you won't forget to complete this little task in the future!

Since February 1, 2020, we have welcomed 99 new members for a total of 470 in Fairfax. A full list will be included in the October Voter.

Programming Update

by Jessica Storrs

Welcome to a new League programming year! My name is Jessica Storrs and I am the new Program Director. I am a retired librarian and a Virginia native, having grown up in Winchester and later settling in Northern Virginia where I've been for the past 25 years. I have some big shoes to fill as we say goodbye to Julie Jones, who so capably led programming for the past two years. I want to thank Julie for all her hard work and for so graciously showing me the ropes as I find my way in this new role. Julie will continue to serve the League as an At-Large member.

Here is our program lineup for the remainder of 2020:

- September: LWV-VA Election Laws Position Update, Part 1 (2nd half)
- October: LWV-VA Affordable Housing Study Report
- November: Action/Advocacy program (more details soon)
- December: LWV-VA & LWNCA Program Planning

Now that many of our activities have been curtailed due to the pandemic, this could be an ideal time to help research an issue for the benefit of the League. In 2021, Diane Blais will author a report on Broken U.S. Treaties and Sidney Johnson will take the lead exploring Reparations. They would welcome volunteers to assist them on these projects. Please contact me at jessica.storrs@lww-fairfax.org to discuss.

Election Laws Position Update

Part 1 - Second Half

The following is the second half of Part I of the Study, for discussion in October. The first half was published in June, and is available online, along with the full Study, including endnotes, figures, and appendices. There are two graphics in the electronic version of Section B showing the workings of VERIS and the components of a locality's infrastructure. They could not be included in the print version because space was limited.

Part B: Prepare Amendment to State Position to Strengthen Support for Security, Including Physical Security of Voting Equipment and Ballots

B1. Security of Registration and Election Software Applications and Databases Throughout the Commonwealth of Virginia

Background:

In 2017, Secretary of Homeland Security Jeh Johnson noted that “cyberattacks on this country are becoming more sophisticated...and dangerous.” He designated election systems as a subsector of the existing Government Facilities Critical Infrastructure Sector, which enables the Department of Homeland Security (DHS) to prioritize cybersecurity assistance to those state and local election officials who request it. It also allowed DHS to monitor suspicious activity related to state election systems, and to issue alerts regarding attempted intrusions.⁶² Intelligence officials believe that election systems in all 50 states have been probed.⁶³ Compromise of voter registration data through malicious modification, additions, deletions, or through ransomware or denial-of-service attacks would result in disruption at polling places on Election Day, disenfranchisement of eligible voters and/or casting of illegal votes, delay and expense in processing provisional votes, and loss of confidence in the outcome of an election.⁶⁴

Federal agencies, including DHS's Cybersecurity and Infrastructure Security Agency (CISA)⁶⁵ and NIST,⁶⁶ have developed cybersecurity best practices for critical computer infrastructure, including actions to combat risks to voter registration databases.⁶⁷ The Center for Internet Security (CIS) Handbook for Elections Infrastructure Security describes 54 best practices for network-connected election systems.⁶⁸ Daily innovation in techniques by cyberattackers makes it impossible to provide a comprehensive, static list of cyber-defense strategies. To stay abreast of security alerts, CIS hosts the Multi-State Information Sharing and Analysis Center (MS-ISAC), which monitors networks and provides early warnings on cybersecurity threats.⁶⁹

States are more likely than municipalities to have resources to engage highly qualified staff and to contract with cyber-

security experts to harden their systems. Ensuring localities employ strong cybersecurity standards for access to the central system is constrained by the independence of each jurisdiction. Cost, resources, and resistance to central authority may hamper a state's ability to fully secure interfaces to the election system.

Virginia's Voter Registration Database:

The Virginia Election and Registration Information System (VERIS) was implemented in 2007.⁷⁰ In 2019, a Joint Legislative Audit and Review Commission assessment found that VERIS was not sufficiently functional or reliable.⁷¹ ELECT plans to implement a new system in 2022 if the General Assembly provides funding.⁷²

VERIS runs on infrastructure managed by the Virginia Information Technologies Agency (VITA), which adopted standards of NIST for computer security.⁷³ VERIS provides interfaces for three types of users:

- ELECT staff, who access VERIS using VITA-managed computers over the Commonwealth Virtual Private Network (VPN);
- General Registrars, who access VERIS from locality computers using two-factor authentication;
- Citizens, who access the online registration portal over the internet from the Department of Motor Vehicles (DMV) or from an independent computer.

New voter registrations are entered from paper forms or submitted electronically, and they must be approved by the General Registrar in a voter's locality. Changes or deletions to the voter list are based on data that ELECT receives from the Department of Motor Vehicles, the National Change of Address database, the Bureau of Vital Statistics, the multi-state Election Registration Information Center, and court records.⁷⁴ General Registrars assign voters to precincts based on their addresses. These data are used to produce extracts of the registration list to be loaded onto EPBs, or to create printed pollbooks for localities that do not use EPBs.⁷⁵ At the close of an election, General Registrars are responsible for entering vote counts into VERIS for each contest in their locality. They also upload or manually enter “voter credit” data to indicate which voters participated in the election. VERIS tabulates the vote

counts and exports data to the Election Reporting System for communication of the results.⁷⁶

Virginia has 133 localities that vary widely in population and resources. The knowledge and financial capabilities required to safeguard computers used for VERIS access are scarce in some localities. If local systems are also used to run other office or personal applications, a staff member may unintentionally compromise the integrity of the connection to VERIS. For example, internet browsing or accessing email on an insufficiently protected computer could introduce malware that attempts to breach the central computer's defenses.⁷⁷ The use of removable storage devices, such as USB drives, to download pollbook data or upload voter credit data introduces another means of introducing malware to the system.⁷⁸ Providing a web portal for voters to view and maintain their own information makes voter registration more accessible to citizens. However, it also offers a possible avenue for cyberattack.⁷⁹

In 2019, Virginia enacted legislation requiring the development of standards to ensure the security and integrity of the voter registration system and the supporting technologies used by localities to maintain that information.⁸⁰ ELECT is working with CISA to identify vulnerabilities and perform risk assessments; it requires localities to conduct annual cybersecurity self-assessments and to participate in one of CISA's information-sharing and analysis centers.⁸¹ In its narrative budget regarding use of 2018 HAVA funds, ELECT proposed "to substantially increase the security posture of the election infrastructure used in the Commonwealth of Virginia through cost-effective implementation of the standards, policies and best practices" developed by VITA and federal standards-issuing agencies.⁸²

ELECT's culture supports strong cybersecurity practices and is moving toward increasing its defensive capabilities. The State currently participates in MS-ISAC and is working with consultants to bring best-practice cybersecurity to its central election system. The Governor's 2020 budget proposal would fund new staff in ELECT's IT and Training areas.⁸⁴ Recent legislation requires ELECT to work with localities to ensure vulnerabilities in remote access are addressed. ELECT plans to upgrade or replace VERIS in the near future. This progress should be supported and reinforced by the League's positions on election laws.

Current LWVUS and LWV-VA Positions

LWVUS: Supports voting systems that are secure, accurate, recountable, accessible, and transparent.⁸⁵ Five focus areas were identified by the League as essential to protecting the votes of all citizens and improving election administration overall, one of which is to improve administration of

statewide database systems.⁸⁶

LWV-VA: Positions do not address security.

Study Committee Recommendation

The Study Committee recommends that the LWV-VA Election Laws position be modified to address the security of registration and election software applications and databases including:

- *Ensuring that the Commonwealth provides sufficient resources for*
 - *adequately staffing central information technology functions and maintaining infrastructure and applications to a high level of cyberprotection,*
 - *supporting localities in securing systems that access central registration and election applications,*
- *Recommending that the Commonwealth participate in national and multistate associations that develop cybersecurity standards, monitor emerging threats to critical infrastructure, and identify protection strategies,*
- *Supporting the acquisition and maintenance of a voter registration and election management system that meets high standards for security, usability, reliability, and functionality.*

B2: Cybersecurity of Election Equipment, Including Electronic Pollbooks, Local Election Management Systems, Ballot-Marking Devices, and Optical Ballot Scanners.

Background

Election Management Systems (EMS)

An EMS is an integrated suite of applications that can be used in local jurisdictions for "back office" tasks related to elections. The primary tasks are to define the content of a ballot, create a ballot layout, create files that control the operation of ballot marking and tabulating devices, and accumulate the voting results from multiple precincts to produce a local tabulation. The EMS generally resides on an off-the-shelf (COTS) computer in a locality's central office and sends data to and receives data from precinct-level devices via removable media such as USB drives.⁸⁷ Using the EMS computer for email raises the risk of a successful "spear-phishing" attack on the system.

If malware is introduced into the computer on which the EMS runs, then infection of ballot definition file media can occur.⁸⁸ This is more likely if the computer is also used for web browsing, music streaming, email, etc. Removable media are vulnerable to cyberattack if they are used for any purpose other than transmitting ballot-definition files, can be accessed by unauthorized persons, or are from sources whose security practices cannot be verified.

Because of the technical complexity of the task, some localities delegate the creation of ballot-definition files to the voting system vendor or other consultant. Vendors and contractors may have access to sensitive data such as ballot layouts, device configurations, and voter data that could be exposed if stored outside the jurisdiction's control.⁸⁹

Ballot Marking Devices (BMD)

BMDs provide an interface (e.g., tactile keyboards, ports for headphone jacks or sip-and-puff devices) to assist voters who have accessibility needs that interfere with marking a paper ballot; BMDs produce a marked ballot which is then scanned or counted manually. The BMD prints a ballot that is either identical to ballots marked by hand or is a summary of the voter's choices.⁹⁰ The advantages of BMDs (other than their assistive features) are that they create unambiguous selection marks, prevent over-voting, and warn about under-voting. The disadvantages are that they are complicated to manage and operate, and they put the onus onto voters for discovering and reporting discrepancies on a machine-marked ballot.⁹¹

BMDs are special-purpose computers that are vulnerable to error as a result of hacked or corrupted ballot-definition files or infected removable media. The ports that allow insertion of a voter's assistive device also offer points of access for cyberattack. Of particular concern is that newer BMDs encode the voter's selections in a barcode for ease in scanning, as well as listing them in plain text. However, since the voter is unable to decipher a barcode, these devices could alter a voter's selections without the voter's awareness.⁹² The National Election Defense Coalition opposes adopting ballot-marking devices as the primary method of voting because they introduce unnecessary security risks, incur unnecessary expense, and are more likely to cause voters to wait to be able to vote.⁹³

Optical Ballot Scanners

Optical mark recognition automates the counting of ballots and can generate a digital cast-ballot image that can be used for auditing, or to simplify the interpretation of write-in votes, empty ballots, or ballots with ambiguous markings.⁹⁴ When the ballot is scanned, the devices detect marks in specific areas. The scanners are required to identify overvotes and enable voters to retrieve and discard their ballots before receiving replacement ballots. Ballot scanners can also warn voters, before the ballot is counted, if undervotes or ambiguous marks are detected. Ballots on which write-in votes are sensed can be diverted to a separate section of the ballot storage box. At the close of polling, the device is opened to retrieve its vote tallies.⁹⁵ Scanners at the precinct level provide voters with the option of fixing an error. Central-count scanners are often

higher-speed devices; they are generally used for counting absentee or mail-in ballots.⁹⁶

The advantage of tabulation by scanner is the speed with which votes can be processed, and the ability of precinct-based scanners to produce a count before the paper ballots are transported to a central location. Disadvantages include the limitations of a computer system to interpret human variation in making marks, potential malfunction of the devices due to environmental conditions or mechanical issues, and the inherent vulnerability of any computer system to attack. Fraudulent vote counting by an optical scanner is possible if a malicious actor were to gain access to configuration files or to the removable media used to transport those files to the scanners.⁹⁷

Electronic Poll Books

There are no national standards for the security and operation of electronic pollbooks.⁹⁸ The utility of electronic pollbooks depends on their ability to share up-to-date information across devices and locations, which poses inherent cybersecurity challenges. Lists of registered voters and other related information (e.g., whether a voter has cast an absentee ballot) must be transferred onto electronic pollbooks. After an election, information must be exported from the pollbook and transferred back to the local and state election offices. Any transmission of information represents a security risk. CIS states that breaching of or tampering with voter information is more likely to occur within voter registration systems "but could also occur in the e-pollbooks themselves and during the transmission of data to the e-pollbook."⁹⁹

In 2018, NAS proposed three recommendations for electronic pollbook security.¹⁰⁰ First, jurisdictions should establish backup plans in case of electronic pollbook malfunction. Second, Congress should authorize and fund NIST to develop security standards and protocols for electronic pollbooks. Finally, NAS recommends that election administrators develop security plans and procedures for assessing and testing electronic pollbook vulnerabilities. The Brennan Center also recommends:

- Limit or eliminate connectivity to wireless networks (including Bluetooth) whenever possible;
- Implement proper security protocols when wireless connectivity is required (e.g., when using devices like iPads that do not support a wired connection);
- Ensure that systems are properly patched as part of Election Day preparations;
- Keep appropriate backup of voter registration information in polling places;
- Provide sufficient provisional ballots and materials for two to three hours of peak voting, in case of elec-

tronic pollbook failure;

- Train poll workers to implement pollbook contingencies.¹⁰¹

Best Practices for Electronic Voting Systems

CIS's Handbook for Elections Infrastructure Security presents 17 best practices for election system components that are "indirectly connected," i.e., without persistent network or wireless connectivity but utilizing removable media for transfer of data between devices.¹⁰² Their high priority recommendations cover the following topics:

- Separate the election management system from activities and applications that are not election-related;
- Limit physical access; restrict the number of staff who can access the system or device; employ strong access controls; remove default credentials;
- Ensure all devices have the latest security patches and software updates; implement a change freeze prior to major elections;
- Store master images of application and device software on a securely managed offline system; verify the validity of the code base through hashing algorithms or other accepted procedure.
- Disable wireless capability; prohibit remote access.
- Configure systems to recognize only specific removable media devices (i.e. by serial number); encrypt data transferred by removable media; use write-once media for transferring critical files; control physical access to all removable media;
- Utilize tamper-evident seals on all external ports that are not required for use;
- Document an Acceptable Use policy that details appropriate use of the system and all election-related data;
- Ensure staff is trained in cybersecurity and audit procedures;
- Conduct criminal background checks for all staff including vendors, consultants and contractors supporting the election process; conduct regular independent audits of their security controls;
- Perform system testing on all devices prior to elections; conduct acceptance testing when installing new or updated software or new devices.

Other cybersecurity and election experts have published recommendations that reinforce and extend this list of best practices. NAS calls for states and local jurisdictions to have policies in place for routine replacement of election systems to avoid the security risks of obsolete systems.¹⁰³ The Belfer Center at Harvard's Kennedy School notes that best practices for prevention of cyberattack must be accompanied by procedures for detection (such as testing, monitoring and auditing) and recovery (such as offline back-

ups and alternate manual procedures), and highlights the need for oversight of vendors and contractors. Requests for proposals, acquisition, and maintenance contracts should include explicit security stipulations to ensure vendors follow appropriate security standards.¹⁰⁴ In a letter to Congress, the National Election Defense Coalition focused on three high-level objectives for ensuring election integrity:

1. Establish voter-verified paper ballots as the official record of voter intent.
2. Safeguard against internet-related security vulnerabilities and assure the ability to detect attacks.
3. Require robust statistical post-election audits before certification of final results in federal elections.¹⁰⁵

Election Equipment in Virginia

Virginia's 133 localities are responsible for purchasing, managing, and operating devices that support the election process. Each Board of Elections may choose among the systems certified by Virginia. In 2019, four vendors supplied voting devices in Virginia. The devices included five models of ballot marking devices (BMD), ten models of optical scanner, and one hybrid BMD/scanner model.¹⁰⁶

Each locality is required to provide vote-casting methods to accommodate different physical abilities and, depending on local demographics, different languages.¹⁰⁷ This generally means at least one ballot-marking device with special adaptations is available in a precinct, even if most voters vote by hand-marking a paper ballot. Ballots may be counted by optical scanners or direct recording electronic (DRE) devices that produce a record of each vote. Thus, each locality has a particular suite of devices that must be properly configured and maintained. In 2016, the Code of Virginia was amended to prohibit DREs after July 1, 2020.¹⁰⁸

Virginia law¹⁰⁹ requires voting systems pass state certification standards, which in turn mandate the systems have first achieved certification by the Election Assurance Commission (EAC). The standards are intended to establish baseline functionality, accessibility, and security of systems.¹⁰⁹

Electronic voting systems are comprised of interrelated components: a local election management system, ballot marking devices, optical scanners, and (until July 2020) DREs. These components are considered one unit for the purpose of federal and state certification. Although each device has unique vulnerabilities, they also share certain risks and benefit from similar cybersecurity best practices.

Before a local electoral board can place a voting system into operation, it must pass acceptance testing.¹¹² Voting systems also undergo logic and accuracy (L&A) testing for

every ballot style and system component both prior to and immediately after the election. The EAC recommends producing and processing a set of pre-audited votes and comparing the counts to the expected results.¹¹³ The test must be observed, and the results certified by an electoral board member, general registrar, or a designated representative. Vendor personnel must not conduct either acceptance or L&A testing.¹¹⁴

The number of assistive interfaces in a BMD makes it nearly impossible to conduct a manual test of every device, ballot style, and language. Although Virginia requires that localities conduct L&A testing, it has no standards to assist local election officials to perform these tests adequately.

Virginia law allows for both paper and electronic pollbooks; jurisdictions may use their own funding to purchase electronic pollbooks, as long as they are approved by the state.¹¹⁵ Electronic pollbook systems used in Virginia are designed by third-party vendors; they use off-the-shelf hardware (e.g., iPads) and proprietary software.¹¹⁶ Whether due to malicious attacks or just malfunctioning equipment, issues with electronic pollbooks can cause long wait times and affect voter confidence. Virginia law does not require jurisdictions to keep paper backups at polling places when electronic pollbooks are in use, though some jurisdictions do.¹¹⁷ If technical issues prevent use of electronic pollbooks and there is no backup available, all affected voters must vote a provisional ballot. The SBE has developed procedures and system requirements for electronic pollbooks.¹¹⁸

Localities perform acceptance testing when they receive new electronic pollbooks; however, the State leaves pre-election testing to the discretion of the locality.¹¹⁹ Unlike other election equipment, electronic pollbooks are often networked to allow information to be sent from one pollbook to another so, for example, all pollbooks in a given precinct indicate if a particular voter has checked in. Virginia's certification standards have specific requirements for connection, encryption, and authentication to protect the integrity of networked electronic pollbooks, and pollbooks may never be connected to a publicly accessible network.¹²⁰

The 2019 update to the Code of Virginia §24.2-410.2 [B]¹²¹ mandates that localities annually submit written plans and procedures for the security and integrity of technologies used to access the central voter registration database. In November 2019, the SBE approved a package of twenty minimum security standards presented by ELECT. The motion to approve these standards stated “(I)n support of improving elections security maturity within the Commonwealth prior to the 2020 Election, localities are highly

encouraged to align their resources to assure that at a minimum, the standards identified with a Risk Priority of critical and high, are implemented by September 1, 2020 – along with any others they believe to be of critical and high-risk priority for their locality.” ELECT worked with a selection of nine localities to develop cost estimates for implementing the standards. Within that diverse group, ELECT found “(S)ize of locality does not necessarily imply greater elections security maturity” and “(E)lections security maturity, even to these minimum standards, varies greatly.”¹²²

Current LWVUS and LWV-VA Positions

*LWVUS: Supports voting systems that are secure, accurate, recountable, accessible, and transparent.*¹²³

LWV-VA: Positions do not address security.

Study Committee Recommendation

The Study Committee recommends that the LWV-VA Election Laws position be modified to address the cybersecurity of election equipment including:

- *Supporting the use of BMDs that produce ballots identical to hand-marked ballots to avoid vulnerabilities associated with barcodes;*
- *Supporting the use of standards for logic and accuracy testing of election equipment;*
- *Requiring standards for security practices of voting machine vendors, their personnel and consultants/contractors;*
- *Supporting the replacement of devices well before end of life;*
- *Recommending that the Commonwealth and localities have sufficient resources to follow best practices for cybersecurity;*
- *Requiring the use of paper backups of voter lists (or other contingency plans) in case of electronic pollbook malfunction.*

B3: Physical Security

Background

Physical election security should take a broad view, focusing not just on the election machines but the entire voting system including buildings, personnel, documentation, and operating procedures. The first step towards assuring physical security is knowing what equipment is owned, controlling how it is stored and maintained, and documenting changes to system components, both hard and soft. Documentation must be kept current, and obsolete information purged. The EAC recommends detailed inventory and ID tags, and keeping a log of all changes to the system, whether a simple inspection, or a change to a part, etc.¹²⁴

Voting machines and paper ballots need to be kept securely

stored. Access to equipment should be documented and limited to as few individuals as possible, with additional access only as needed, such as for repair/maintenance. EAC guidelines state that any unauthorized physical access, either to machines or paper ballots/ballot boxes, will leave evidence of that access.¹²⁵ A 2009 LWVUS study noted that physical protection of voting systems includes pre-election preparation and how components are secured during delivery to polling places, including locations for in-person absentee voting.¹²⁶

Ensuring physical security goes beyond protecting against malicious attacks. Proper security procedures include making sure voters and poll workers cannot inadvertently disrupt the election by, for example, accidentally turning off or disabling a machine. Polling places should be set up to allow poll workers to easily monitor the voting equipment/procedures and identify any disruptions.¹²⁷ The Brennan Center also identifies emergency procedures and contingency plans as important components of security and recommends that poll worker instructions and training should anticipate likely scenarios and documentation procedures should be able to account for non-standard situations.¹²⁸

The voting process requires integrity at every step of the supply chain. The Brennan Center reported that three vendors account for more than 80% of voting systems in use today.¹²⁹ This includes not just the voting machines, but electronic poll books, voter registration databases, ballot design, and configuration of voting machines. In contrast to vendors in other critical infrastructure sectors, these vendors receive little or no federal oversight. The Brennan Center has proposed a framework for oversight that includes issuing vendor best practices in the areas such as personnel and supply chain integrity, and expanding EAC's existing voluntary certification program to include vendors. This takes a step back in the election process and asks to know more about the vendors and their subcontractors, such as personnel policies for vetting employees, where parts come from, and how they are kept secure.

EAC's draft VVSG 2.0 principles describe voting system designs that are physically robust, easy to use, and straightforward for evaluators. Several of the VVSG 2.0 principles will be relevant to the physical integrity of voting systems. Principle 12 focuses specifically on physical security and requires that "12.1-The voting system prevents or detects attempts to tamper with voting system hardware. 12.2-The voting system only exposes physical ports and access points that are essential to voting operations."¹³⁰

Physical Security in Virginia

ELECT publishes a handbook of procedures and guide-

lines for local elections officials, and many physical security items are codified in Virginia statutes. Local electoral boards are responsible for the security of their voting system, including electronic poll books. Additionally, localities are required to have a written security plan that is reviewed annually.

Law related to election security in Virginia is changing as a result of HB 2178, which passed during the 2019 legislative session. The bill is summarized on the Virginia Legislative Information System¹³¹ as follows:

Virginia voter registration system; security plans and procedures; remedying security risks. Directs the State Board of Elections to promulgate regulations and standards necessary to ensure the security and integrity of the Virginia voter registration system and the supporting technologies utilized by the counties and cities to maintain and record registrant information. The local electoral boards are also required to develop and update annually written plans and procedures to ensure the security and integrity of the supporting technologies. The local electoral boards are further required to report annually to the Department of Elections on their security plans and procedures. The bill authorizes the Department of Elections to limit a locality's access to the Virginia voter registration system if it is determined that the county or city has failed to develop security plans and procedures or to comply with the security standards established by the State Board; such access would be limited as necessary to address and resolve any security risks or to enforce compliance...The bill requires the State Board of Elections to convene a work group prior to adopting security standards and to establish a standing advisory group of local government IT professionals and general registrars to assist and consult on updates to security standards.

Voting Machines

As of 2018, Virginia requires testing to federal standards.¹³² The basic requirements for protecting voting machines and election processes are laid down in the Code of Virginia Title 24.2 Elections.¹³³ Governing all aspects of security is the confidentiality about procedures that must be maintained at the Electoral Board level and downward.¹³⁴

Counties may acquire different types of voting equipment that they deem appropriate to their locations, provided the equipment has been approved by the state. The Virginia Code says that jurisdictions shall employ dedicated staff, called custodians, to prepare and test the machines before an election. They are sworn officers who, in the presence of a member of the Electoral Board or the registrar and a member of political parties and/or a member of the public, put the machines through their paces and then seal them,

numbering the seals as prescribed in the Code. Some localities, however, opt to contract the L&A testing to vendors' technicians, often because they lack sufficient IT staff capabilities to perform those testing functions in-house.

There is no explicit mention in the statute of storing all equipment in locked warehouses or a lockable polling place location just before elections, but that is a precaution followed by election office personnel.

Election officers must be trained in the use of the equipment, which must be placed so all machines are in full view. Officers who receive pollbook cartridges, keys, and seals in sealed envelopes at the beginning of the day must certify these envelopes have been received. At the end of the day the items must be placed in sealed envelopes and signed. Representatives of the two major parties or candidates themselves must witness the sealing and signing.

After the officers of election have fully accounted for and stored the ballots and any aberrations and have signed the statement of results, one of the officers must take the ballots, pollbooks, and all materials in sealed envelopes to the clerk of the court, who retains custody of them, keeping the sealed boxes in a secure place, waiting until the period for a recount request has passed.

An informal survey of LWV-VA members who serve as election officers showed that the respondents had a high degree of confidence in the security procedures observed in their polling places. One of the respondents is a registrar. The survey is Appendix B.

Electronic Poll Books

Poll book records, paper or electronic, are transmitted to the SBE on USBs in sealed packages for voter credit just after an election, then returned to the registrar to be kept for two years. Election officers in the polling places certify the names and numbers of qualified voters who voted. The EPB is marked to identify the election for which it is used.

Voter Registration Machines

The main vulnerability of VERIS is in the cybersecurity realm, but there are physical protections. ELECT's Commissioner Piper explained that there are two locations for the database, one at the Commonwealth Enterprise Service Center in Chesterfield County and one at another location in Virginia managed by VITA. There are periodic reviews of permissions for access based on roles.¹³⁵ Under HB 2178, ELECT may limit a locality's access to VERIS if its security plans do not comply with state standards.

Looking Ahead

Under HAVA, Virginia received funding in 2018 of \$9,080,731 to be spent over a five-year period for upgrading all aspects of the election system and personnel training. Commissioner Piper specified the deliverables in a letter to the EAC:

1. The Department of Elections will continue to provide multifactor authentication for all users accessing sensitive data.
2. The Department will provide effective cybersecurity training.
3. The Department will develop the new and updated standards and templates.
4. The Department will conduct training and provide guidance on the implementation of the standards.
5. Each voting system and electronic pollbook system will be recertified within 4 years, in accordance with the new certification standards.
6. The Department will establish a 4-year cycle for the review of all equipment certification standards.
7. The budget attached to this document shows a supplement of 5% approved by Governor Northam.¹³⁶

In September 2019, Congress allocated another \$250 million to give States for election security but did not set criteria for how it should be disbursed or spent. Funding depends on the will of Congress to release it; there is no regular schedule or pattern.¹³⁷

It must be emphasized that the development of security procedures of all kinds in Virginia is very dynamic right now. ELECT announced it approved the new minimum security standards developed after the passage of HB 2178 to take effect during 2020.¹³⁸ The new standards are mainly focused on cybersecurity, but there are improvements in statewide standardization, such as new certification requirements for electronic pollbooks to enable them to function well during no-excuse absentee voting.¹³⁹ There are many provisions for staff training on such matters as incident response and contingency planning. Election administrators must submit annual reports and are responsible for risk assessment. The local Electoral Board is accountable for its locality.

Physical access to equipment by personnel, vendors, and maintenance staff is limited and documented. There should be no superfluous connecting materials. Maintenance tools are permitted only to authorized personnel. Any equipment that may be taken out of the facility cannot have a label indicating its locality. Badges and keys are secured. To prevent incidents, there are recommendations for environmental maintenance, such as temperature and humidity control, cable repair, and an uninterruptible power supply.¹⁴⁰

Current LWVUS and LWV-VA Positions

LWVUS: Supports voting systems that are secure, accurate, recountable, accessible, and transparent.¹⁴¹

LWV-VA: Positions do not address security.

Study Committee Recommendation

The Study Committee recommends that the LWV-VA Election Laws position be modified to address physical security including:

- *Supporting the use of recountable, voter-verifiable paper ballots marked either by hand and scanned or by a ballot-marking device that produces a paper or card ballot;*
- *Developing minimum standards to protect the equipment used in all phases of the voting process, from computers that hold the database of registered voters to electronic poll books and electronic voting machines;*
- *Requiring appropriate and systematic training of permanent personnel and polling place election officers.*

Part C: Review Language Supporting Electronic Voting**Background**

In the context of this study, “electronic voting” is more accurately described as “internet voting” or “online voting,” because the reference is to voting via the internet. Online or internet voting includes not only voting directly from a device such as a computer, tablet, or smartphone but also the attachment of an absentee ballot to an email, and sending by facsimile (fax).¹⁴² Making voting accessible to voters who face obstacles to voting in person or absentee by mail is a compelling goal. Citizens with disabilities and voters overseas, notably our military, should be able to vote with the same convenience as those at home. The issue is whether the convenience outweighs the risks that internet voting poses to election systems and outcomes.

Internet voting has been subject to study and pilot projects for years, internationally as well as in the United States.¹⁴³ In the U.S., West Virginia, Utah, and Denver have piloted internet voting through mobile phone applications. Arizona, Colorado, Missouri, and North Dakota allow some voters to return ballots using web-based portals. Nineteen states and Washington, DC allow some voters to return ballots via email or fax.¹⁴⁴ In 2018, West Virginia became the first state to test internet voting through a mobile application in federal elections by initiating a pilot available to certain overseas voters. In the pilot, 183 people requested the mobile application, 160 downloaded it, and 144 (78.7%) cast votes.¹⁴⁵ A 2019 survey found that West Virginia voters living abroad who could vote online were

3-5% more likely to vote than those who did not have access to this technology.¹⁴⁶ Denver piloted mobile voting for military personnel and citizens stationed overseas in the 2019 municipal general election. This pilot also had a high completion rate—120 out of 156 (76.9%) ballots were returned—although the self-selection of voters participating in the pilot could explain the high rate of return.¹⁴⁷

Arguments in Favor of Internet Voting

Internet voting has three primary advantages: (1) it is generally more convenient, and increased convenience may increase voter participation; (2) it enables specific populations, such as overseas voters and voters with certain disabilities, to vote more easily; and (3) it may improve accuracy and efficiency of vote counting.

Internet voting is convenient since the voter does not have to travel to a polling place or wait in line to vote. Initiating online voting takes some time—each voter has to download and learn to use a mobile application, verify his/her identity, and then vote—yet, this is likely less time-consuming than voting at a polling location. Internet voting is also more efficient than voting by mail; to vote by mail, a voter has to request a ballot, wait for it to arrive, fill it out, find postage, and mail it back. Voters who request ballots online need to be able to print the ballots.

In 2016, an estimated 5.5 million US citizens lived overseas.¹⁴⁸ The Military and Overseas Voter Empowerment (MOVE) Act requires that ballots be sent to these voters no less than 45 days before Election Day. Despite this, only 26% of active duty military members cast ballots in 2016 and 21% of ballots mailed to citizens were returned to local election offices as undeliverable.¹⁴⁹ Overseas military voters face obstacles in transmitting and receiving election-related materials including slow mail delivery and lack of secure mailing systems.¹⁵⁰ A Federal Voting Assistance Program analysis found that voters who retrieved their ballots online were nearly 50% more likely to vote successfully.¹⁵¹

For voters with disabilities, casting ballots on mobile phones could be significantly easier than travelling to the polls.¹⁵² While the Americans with Disabilities Act requires that people with disabilities have access to public services such as voting, barriers remain, both in terms of a shortage of voting machines with accessible features and physical barriers. In 2016, the Government Accountability Office examined the outside areas of 178 polling places and found that 60% had potential impediments.¹⁵³ Mobile phones have features that can help voters with a range of disabilities; phones can increase text size, read the screen’s content aloud, and operate through voice commands.

Internet voting systems record and store ballot selections more efficiently than traditional voting systems. It is much faster to tally mobile votes than tallying votes from paper mail-in ballots. The software can prevent voter error when filling out a ballot and decrease chances of ballot invalidation. For example, software can be programmed to only allow the voter to choose the right number of candidates for each office. Importantly, election officials are more easily able to monitor relatively small voting populations using an internet voting application for potential compromises.¹⁵⁴

Arguments Opposed to Internet Voting

Election security experts emphasize that elections must be anonymous, secure, accessible, recountable, and verifiable. Numerous vulnerabilities are created by online voting, including:

- The inability to accurately authenticate the voter's identity (forged credentials, limitations of facial recognition software and lack of biometric data);
- System disruption, such as denial-of-service attacks that slow or crash a system;
- Malware on voters' devices that can modify votes undetectably;
- Attacks on servers and routers from remote locations through malware-infested transmissions;
- Manipulation by either outsiders or insiders (equipment manufacturers, technicians, and others with legitimate access to election software or data) to undetectably change votes;
- Spoofing, which would direct voters to a phony elections website instead of the real one;
- Voter coercion, such as the use of cryptocurrency to buy and sell votes.^{155,156,157,158}

A computer scientist who studies online voting explains, “[O]nline elections might be compromised and the wrong people elected via silent, remote, automated vote manipulation that leaves no audit trail and no evidence for election officials...to even detect the problem....”¹⁵⁹

Some states have backed away from internet voting. Alaska, which stood to benefit from internet voting because the population is so spread out and isolated, discontinued its web portal for online ballot transmission, and Washington state rescinded permission for all but a few voters to return ballots over the internet in 2018; in both states the vulnerabilities became manifest to their authorities when they visited a hacker convention.¹⁶⁰

Some proponents argue that technologies such as blockchain, a technology intended to keep information secure, are the answer. Critics contend that “[Blockchain] fails to address many of the fundamental and universal secu-

urity challenges inherent to online voting...”¹⁶¹ Blockchain technologies do not permit voters to verify the actual ballots tabulated and ballots cannot be audited. NAS notes that blockchain fails to preserve voter anonymity and ballot secrecy and “do[es] not redress the security issues associated with Internet voting.”¹⁶²

Another system, end-to-end (E2E) verifiability, can provide online voting that allows voters to ascertain that their votes were recorded correctly and included in the final tally, and is generally auditable.¹⁶³ But E2E systems are as prone to malware and denial-of-service attacks as any other system and do not address voter authentication.¹⁶⁴

In 2019, Alex Halderman, a computer science professor known for commandeering an online voting system as a white-hat hacker,¹⁶⁵ held up his smartphone and wryly forecast that someday everyone will vote using a personal device.¹⁶⁶ Nevertheless, in Virginia, the current Commissioner of Elections recognizes that the technology is not “there” to permit online voting.¹⁶⁷ A 2018 NAS analysis noted “Insecure Internet voting is possible now, but the risks currently associated with Internet voting are more significant than the benefits. Secure Internet voting will likely not be feasible in the near future.”¹⁶⁸

Status of Internet Voting in Virginia

Virginia has entertained legislation to study or pilot internet voting in recent years.¹⁶⁹ Despite an in-depth study, which included a framework for internet voting, the method has never been tested in the Commonwealth.¹⁷⁰

A 2015 report by ELECT pointed out some of these vulnerabilities and added others, such as phishing; ballot interception, which could prevent a voter from receiving a ballot; and ballot spoofing, where a malicious actor either swaps out a real ballot or modifies it before it reaches the voter.¹⁷¹ An author of the report points out that cyberthreats have become increasingly mature and ubiquitous, and that he would have greater reservations about internet voting today than he did when the report was prepared.¹⁷²

The 2020 Virginia General Assembly approved an extension of the deadline for returning absentee ballots and extended the deadline for applying for absentee ballot by mail for all (not just MOVE) voters.¹⁷³

Current LWVUS and LWV-VA Positions

*LWVUS: Supports voting systems that are secure, accurate, recountable, accessible, and transparent.*¹⁷⁴

LWV-VA: Supports the use of electronic means for submitting absentee ballots by military and overseas voters if it can be accomplished while maintaining ballot security and

*integrity.*¹⁷⁵

Study Committee Recommendation

The Study Committee recommends that the current LWV-VA Election Laws position be modified to include:

Opposing the return of voted absentee ballots utilizing any aspect of the internet unless and until such voting can be accomplished while maintaining ballot security and integrity, the security of elections systems, voter anonymity, and ballot secrecy.

Part D: Add a Statement Opposing the Requirement for Photo ID at the Polls

Background

Information in this section is based on the recollections and personal records of Therese Martin,¹⁷⁶ the LWV-VA Public Advocacy for Voter Protection Coordinator at the time, and Olga Hernandez,¹⁷⁷ former President of LWV-Fairfax Area.

Under the LWVUS position opposing photo IDs, LWV-VA argued against SB 1256, the bill requiring that citizens present a photo ID at the polls in order to be eligible to vote, which was passed in 2013 and became effective July 1, 2014. Many other civic organizations also opposed passage. Reasons for opposition included the high cost, the difficulty for some people in obtaining a photo ID, its restrictiveness, and the lack of evidence of fraud by voter impersonation. Though unsuccessful at preventing the photo ID requirement, these organizations did effect changes in the language of the bill—the final bill wording became, “the State Board shall provide free voter registration ...” [emphasis added].¹⁷⁸

Civic organizations did convince the General Assembly to liberalize the mandate to the SBE, requiring that it provide equipment for local registrars to obtain photos and signatures of voters who requested ID cards, without cost to the registrars.¹⁷⁹ An Executive Order required the SBE to ensure local jurisdictions had resources to educate the public effectively about the new law. ELECT developed a coordinated “Are You Election Ready?” campaign employing all forms of media, including social media, to inform citizens about the new requirement. Civic organizations worked with the election offices and one another to publicize the new requirement and the availability of the free photo ID. However, the campaign depended on the ability of general registrars in each jurisdiction to implement the new requirements. Some provided their staff with photo equipment to take to libraries, community centers, and even senior residences. A survey of the 133 registrars found only 9 who definitely planned to take photo equipment into the

field and 38 who might. Only one set of equipment was provided to each jurisdiction, regardless of its geographical area or size of population.

After the general election in November 2014, the League surveyed its members, many of whom served as election officers, about their observations concerning the photo ID law. The survey indicated very few problems, but members reported that the people who did not have current photo IDs were elderly persons who had recently moved. Further, the survey indicated those voters either no longer drove and did not have another photo ID, or had trouble getting new IDs because of issues with the documents they did have. Women who have changed their names are disproportionately affected.¹⁸⁰ The Brennan Center also reported anecdotal evidence of inconsistencies in the way the new law was implemented in some polling places. Some voters in Virginia who did not have photo IDs were not given provisional ballots.¹⁸¹

ELECT reports the number of persons voting provisionally, including those who did not have an appropriate ID, but does not say why voters had no ID. In 2014, 773 (21%) of those who voted provisionally had no appropriate ID. In 2019, 611 (~20%) voted provisionally because they had no ID, about the same as in 2014.¹⁸² There is no data on the number of potentially eligible voters who did not go to the polls because they lacked photo ID.

The photo ID rule was reviewed and upheld by Federal courts in 2016.¹⁸³ Several former State and local election officials testified at the trial that they were not aware that anyone was unable to vote because of the lack of photo ID. They said some voters probably did not follow up their provisional votes by sending a valid photo ID to the registrar’s office.¹⁸⁴ Ultimately, the U.S. Court of Appeals for the Fourth Circuit upheld Virginia’s photo ID law on the grounds that the state’s law was flexible and did not exhibit an intent to discriminate.¹⁸⁵

Current Status in Virginia

Bills eliminating the photo voter identification requirements were enacted in the 2020 General Assembly session: HB 19 (Delegate Joseph C. Lindsey)¹⁸⁶ and SB 65 (Senator Mamie E. Locke).¹⁸⁷ Additionally, this legislation allows voters without any permissible ID to sign an affidavit attesting to their identity. Under the new rule that eliminates the requirement to show a photo ID, though such an ID will still be accepted, voters will still be required to show some other form of identification, such as a voter confirmation document, a copy of a current utility bill, a bank statement, a government check or paycheck or other government document that shows the name and address of the voter. These

forms of identification were formerly accepted in Virginia.

Under HAVA of 2002, a person who wants to vote in a Federal election but does not show one of the Federally- required forms of identification may still vote provisionally using Virginia-required IDs or an affidavit.¹⁸⁸

Current LWVUS and LWV-VA Positions

LWVUS: Five focus areas were identified by the League as essential to protecting the votes of all citizens and improving election administration overall, one of which is to oppose photo ID and documentary proof-of-citizenship.

LWV-VA: Positions do not address photo ID.

Study Committee Recommendation

The Study Committee recommends that the LWV-VA Election Laws position be modified to include opposing the requirement that a voter present a photo ID at his or her polling place in order to be able to vote.

Discussion Questions

1. (Section A2, and Section B2) Is the Virginia Department of Elections doing enough to make the election system secure? What measures struck you as particularly effective, and where do you see room for improvement?
2. (Section A3, and Section D) The General Assembly passed legislation providing for no-excuse absentee voting in person or by mail for the full 45-day period and providing for eliminating the requirement to provide a photo ID. Do you think it is now necessary for LWV-VA to state positions on no-excuse absentee voting or the photo ID?
3. (Section A4) Does it seem essential to you that general registrars in all of the jurisdictions should be trained and supported with enough funding and expertise to conduct risk-limiting audits (RLAs) before the election is certified, or is it sufficient for them to conduct audits after certification?
4. (Section B1) Would you advocate that any security measure in the future be required of all jurisdictions, no matter how expensive, if it promised to reduce risk successfully? In principle, would you be willing to see any amount of public funding allocated to the Virginia Department of Elections for that purpose?
5. (Section B2) Should the Commonwealth continue to develop standards in addition to federal standards, and is that a prudent way to expend financial resources and personnel time? [Should the Commonwealth take more advice from other states and adopt more national standards?]
6. (Section B3) Many of you have had experience as election officers or have witnessed the preparation of election equipment before an election. Did the security precautions seem effective to you?
7. (Section C) What is the appropriate balance between making voting as accessible as possible and keeping elections secure, which can sometimes make voting less easy? For example, online voting would be convenient for many and might well boost voter engagement, but it is vulnerable to computer errors and hacking.
8. Does this study have the right amount of depth to facilitate your review and consideration? And to facilitate review by policymakers? If not, do you have feedback as to whether the study group should add detail or edit further to shorten the document?
9. Please comment on any of the recommendations that struck you, that you agree with, or that need revision.
10. What actions or advocacy would you like to see LWV-VA take in view of this study?
11. Were you given enough information on this topic? Were you given enough time to consider it?
12. Is there something you would like to comment on that has not been mentioned?



Notes from June Unit Discussions

By Julia Jones

The June unit meetings, held virtually, provided some thoughtful responses to the first section of Part I of the LWV-VA's study on Virginia's Election Security.

Question 1: (*Is the Virginia Department of Elections doing enough to secure the election system? What measures seem particularly effective? Where do you see room for improvement?`) Unit members felt the Virginia Department of Elections is trying to secure our election system, is aware of threats, and is taking measures to ensure protection. Updating should be more frequent in this age of fast-moving changes. Constant monitoring of systems and hiring qualified personnel to do this work are very important. Members were pleased that Virginia uses paper ballots and that the poll books are not connected to the internet. Although they were reassured that registrars must be certified, they were not happy that election officials are appointed by partisan politicians. Some members support enlarging the State Board of Elections, allowing more parts of the Commonwealth to be represented. VA Dept. of Elections should ensure adequate election funding to less affluent areas and support Risk-Limiting Audits (RLAs) in appropriate situations. Virginia should collaborate with other jurisdictions in formulating best election practices, but not coordinate, since each state has its own laws.*

Question 2: (*The General Assembly passed legislation providing for no-excuse absentee voting and providing for eliminating the requirement to provide a photo ID. Do you think it is now necessary for LWV-VA to state positions on no-excuse absentee voting or the photo ID?`) Our members felt LWV-VA should retain current positions as the laws may change. In the future, the legislation passed this year could be overturned. Retaining the positions would make it possible to once again lobby on behalf of these goals.*

Question 3: (*Is it essential that general registrars in all of the jurisdictions be trained and supported with funding and expertise to conduct risk-limiting audits (RLAs) before the election is certified, or is it sufficient for them to conduct audits after certification?`) The members definitely felt that risk-limiting audits should be conducted before the election results are certified. There should be a sampling size or percentage specified beforehand. It is important there be some provision for elections that cross jurisdictional boundaries, such as a Congressional district crossing county or city lines. Random RLA samples of all elections might assure citizens that the election results are valid even when contests are not close.*

Report of "Report Card" May Unit Meeting

By Julia Jones

The virtual unit meetings in May actually drew an increased number of participants, according to LWV-FA Program Director Julie Jones. Free Conference Call seemed to work well for most units except Fairfax Station and Greenspring who had trouble with spotty internet connections. People were grateful to have something interesting that they could attend without fear of virus.

Regarding any further study needed of this topic, one unit suggested further study of for-profit online/virtual education. The state League study included a look at virtual education providers as an area where some questionable practices have been unearthed and which needs careful monitoring. The May discussion did not cover that. Overall members said no to a full restudy of the position.

Others felt the changes Covid-19 is bringing to the school system need monitoring. How good is the technology we have, what training and procedures might make instruction more effective? In short, we need a local education committee that oversees to what extent educational and emotional needs of both student and teacher are being met and will be met if long-distance learning must continue. Another area of information might involve taking a look at home schooling. One respondent would like more information on who is currently eligible for EISTC (Virginia's Education Improvement Scholarship Tax Credit), what the local composite index is, and how it controls funding,

One respondent whose answers were very complete said she was surprised by the revelation that Albert Shanker first supported charter schools as complementary to public education but turned against them when they started to go commercial. She discovered that there are eight charter schools in Virginia but none in Fairfax, Arlington, Falls Church or Alexandria. She would like to have a description of the different types of charter schools.

She added that we need to repeal the EISTC and return those funds to the school budget; we need to keep working for increased school funding. She was confused about the question on privatization of education, but feels moving away from it is a good thing. She is against funding for religious schools except for preschools, and for handicapped/disabled/special ed children that can't be served in the public schools. Monitoring vouchers, educational saving accounts and tax credit programs continues to be very important.

Historic Redistricting Reform Voting on the Redistricting Constitutional Amendment: Frequently Asked Questions

By Wendy Fox-Grage and Candy Butler

For over 30 years, our League of Women Voters has advocated for a redistricting commission to draw voting districts rather than a partisan General Assembly behind closed doors. Voters will finally get to vote on this redistricting Constitutional amendment on November 3rd. The amendment is complicated, so this article answers some of the most pressing questions.

What does the Ballot Question say?

Should the Constitution of Virginia be amended to establish a redistricting commission, consisting of eight members of the General Assembly and eight citizens of the Commonwealth, that is responsible for drawing the congressional and state legislative districts that will be subsequently voted on, but not changed by, the General Assembly and enacted without the Governor's involvement and to give the responsibility of drawing districts to the Supreme Court of Virginia if the redistricting commission fails to draw districts or the General Assembly fails to enact districts by certain deadlines? YES/NO

If you vote “yes,” a bipartisan, citizen-led commission will be responsible for the initial drawing of election districts.

If you vote “no,” the General Assembly and the Governor will retain the sole responsibility for drawing the districts.

Read the amendment language. (SJ18): <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1196+pdf>

What does the proposed Constitutional Amendment really mean?

The proposed amendment would shift responsibility for drawing election districts from the General Assembly and Governor to a bipartisan commission, made up of 16 persons, half being members of the General Assembly and half being citizens of the Commonwealth. This commission would draw districts for the U.S. House of Representatives, the State Senate, and the House of Delegates and submit the maps to the General Assembly for approval. If the commissioners are unable to agree on map proposals by a certain date, or if the General Assembly does not approve the submitted maps by a certain date, the commission has additional time to draw new districts, but if maps are not then submitted or approved, the Supreme Court of Virginia becomes responsible for drawing the districts.

Who Selects the Commission Members?

Eight commissioners are appointed by the party leadership in the State Senate and House of Delegates, with an equal number from each body and from each major party.

Eight citizen commissioners are selected by a committee of five retired circuit court judges. (Four of the retired judges are selected by party leaders in the Senate and the House from a list compiled by the Chief Justice of the Supreme Court of Virginia. These four judges pick the fifth judge from the same list. This selection committee then chooses citizen commissioners from lists created by party leaders in the Senate and the House.) Each party leader in each house gives the selection committee a list of at least 16 candidates, and the committee picks two from each list for a total of 8 citizen commissioners.

How would Citizens Know what the Redistricting Commission is Doing?

- At least three public hearings in different parts of the Commonwealth will be required prior to the proposal of redistricting plans and prior to voting on redistricting plans.
- All records and documents of the Commission...will be considered public information.

How are the Voting Maps Approved?

U.S. House of Representatives: Plans submitted for the General Assembly's approval must have agreement of at least 6 of the 8 citizen commissioners and at least 6 of the 8 legislative commissioners.

VA State Senate and House of Delegates: Plans submitted for General Assembly districts must have agreement of at least 6 of the 8 citizen commissioners and at least 6 of the 8 legislative commissioners. In addition, at least 3 of the 4 Senators on the commission must agree to the Senate district plan and at least 3 of the 4 Delegates on the commission must agree to the House of Delegates district plan.

The General Assembly will vote up or down on the proposed maps, and cannot make any changes to these plans; the Governor cannot veto any plan approved by the General Assembly. The Standards and Criteria bill, signed into law on April 22, 2020, is viewed as a companion to the Constitutional Amendment (SB717; HB1255).

What Protections are Required as a Result of the New Standards and Criteria Law?

“Districts shall be drawn in accordance with the requirements of the Constitution of the United States, including the Equal Protection Clause of the Fourteenth Amendment, and the Constitution of Virginia; federal and state laws, in-

cluding the federal Voting Rights Act of 1965, as amended; and relevant judicial decisions relating to racial and ethnic fairness.”

Protection against Racial/Minority Discrimination:

“No district shall be drawn that results in a denial or abridgement of ...”

- “the right of any citizen to vote on account of race or color or membership in a language minority group.”
- “the rights of any racial or language minority group to participate in the political process and to elect representatives of their choice.”

Also, “Districts shall be drawn to give racial and language minorities an equal opportunity to participate in the political process and shall not dilute or diminish their ability to elect candidates of choice either alone or in coalition with others.”

District Maps:

- “Shall be drawn to preserve communities of interest.”
- “Shall be composed of contiguous territory.”
- “Shall be composed of compact territory.”
- “Shall not, when considered on a statewide basis, unduly favor or disfavor any political party.”

The law also ends prison gerrymandering by counting incarcerated citizens at their last known Virginia address rather than where the prison facility is located. Non-Virginia residents will continue to be counted in the location of the prison facility.

Can more criteria be established? Yes, the General Assembly can establish additional criteria and procedures through legislation.

Why are Opponents Against the Redistricting Constitutional Amendment?

1. If the redistricting commission fails to draw districts or the General Assembly fails to enact districts by certain deadlines, the responsibility of drawing districts will go to the Supreme Court of Virginia, comprised of seven justices who are elected by a majority vote of each house of the General Assembly for a term of twelve years.

2. A constitutional amendment does not allow for any flexibilities if the Supreme Court of Virginia chooses to draw the districts in a partisan manner.

Why does the League of Women Voters Support the Redistricting Constitutional Amendment?

1. A constitutional amendment creating a bipartisan citizen-led redistricting commission is necessary to achieve

binding redistricting reform.

2. A bipartisan, citizen-chaired redistricting commission with an equal number of legislators and citizens would draw the voting maps.

3. The process will be much more transparent with the redistricting public hearings and data open to the public.

4. There are strong criteria for the protection of racial and ethnic minorities and fair district maps.

5. If the maps fail to be drawn or enacted, the responsibility for drawing the maps transfers to the Virginia Supreme Court. In the past, courts have engaged “special masters” who are experts in drawing voting districts.

Update: Equal Rights Amendment

By Jill Follows and Barbara Boardman

WHY ARE WE STILL TALKING ABOUT THE ERA?

The ERA is not part of the U.S. Constitution, even though 38 states have ratified it, thus meeting the threshold of three-quarters of the states required for approval.

As soon as Virginia became the 38th state to ratify the ERA (January 2020), a federal challenge arose to its embodiment in the U.S. Constitution. Opposition stems from a Congressionally-imposed deadline for ratification. Opposition leaders argue that Congress cannot vote to change the law that set a deadline for state ratification of the ERA. The LWV’s position is that Congress must do the work to eliminate the deadline. LWV urged the U.S. Senate to pass S.J.Res. 6 and advance equal rights under the law. The League’s statement is consistent with its core mission to DEFEND DEMOCRACY and amplify fundamental human rights principles of equality and justice for all.

WATCHFUL EYE ON THE CHALLENGES TO THE ERA

The Federal District Court in the District of Columbia will decide in the coming months whether longstanding U.S. Constitutional procedures and Congressional action compel the automatic certification of the ERA. The U.S. Senate has not voted on the joint resolution that seeks to remove any deadline for formal ratification of the ERA. The House already passed the Bill. (When the ERA passed Congress in 1972, lawmakers included a Resolution altering the procedure for ratification, including a deadline for state action. The original deadline was extended in subsequent law. When Virginia became the 38th State to ratify the ERA, the House of Representatives voted to repeal the deadline and the Senate tabled any vote on the issue.)

Unit Discussion Meeting Locations

Topic: Election Laws Position Update (con't)

Members and visitors are encouraged to attend any meeting convenient for them, including the “At Large Meeting” and briefing on Saturdays when a briefing is listed. Due to the pandemic, September Unit Meetings will be virtual. The unit leaders will send the login information to every unit member.

Saturday, August 29, 2020

12:15 p.m. At-Large Briefing Begins following Fall Kickoff

Contact: Jessica, 301-704-7854 or jessica.storrs@lwv-fairfax.org

Wednesday, September 9

9:30 a.m. McLean Day (McL)

Contact: Susan, 703-893-2229, sfcowart@aol.com or Peggy, 703-772-4939, peggyknight49@gmail.com

10 a.m. Mount Vernon Day (MVD)

Contact: Diana, 703-704-5325 or Jfdw1111@gmail.com

10 a.m. Fairfax Station (FXS)

Contact: Bev, 703-451-4438, rb-dahlin@verizon.net or Sue, 703-266-0272, sueoneill@hotmail.com

Thursday, September 10

9 a.m. Reston Day (RD)

Contact: Barbara (703) 437-0795, bseandlte@earthlink.net

9:30 a.m. Springfield (SPF)

Contact: Pat, 703-941-9210, Pat.Fege@lwv-fairfax.org

10:00 a.m. Centreville-Chantilly (CCD)

Contact: Susan, 703-391-0666, sadill@cox.net

1 p.m. Oakton/Vienna (OV)

Contact: Mary, 703-932-3665, mmvalder@aol.com

7:30 p.m. Reston Evening (RE)

Contact: Wendy, 703-319-4114, wendy.foxgrage@gmail.com

7:45 p.m. Mount Vernon Evening (MVE)

Contact: Jane, 703-960-6820, jane@hilderwilliams.net or Susan, 703-587-4790, scash5002@email.vccs.edu

Monday, September 14

1:30 p.m. Greenspring (GSP)

Contact: Edith, 703-644-3970, djaea2425@gmail.com

October Meetings:

Affordable Housing Study



The League of Women Voters® of the Fairfax Area (LWVFA)
 4026-B Hummer Road, Annandale, VA 22003-2403
 703-658-9150. Web address: www.lwv-fairfax.org

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**The LWVFA Fairfax VOTER®
 September, 2020**

Anu Sahai, Co-President
 Nancy Roodberg, Co-President
 Katherine Ingmanson, Editor

The League of Women Voters® is a nonpartisan political organization that encourages the public to play an informed and active role in government. At the local, state, regional and national levels the League works to influence public policy through education and advocacy. Any person at least 16 years old, male or female, may become a member.

The League of Women Voters® never supports or opposes candidates for office or political parties, and any use of the League of Women Voters® name in campaign advertising or literature has not been authorized by the League.

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LWVFA MEMBERSHIP/RENEWAL FORM

Dues year is July 1 – June 30

Membership Dues: Individual \$75 _____ Household \$100 (2 persons; 1 Voter) _____ Student (No fee) _____
 (A subsidy fund is available; check here _____ and include whatever amount you can afford.)

Membership Status: New _____ Renewal _____ Reinstatement _____ Donation _____
 (Dues are not tax deductible.)

Tax deductible donations must be written as a separate check or PayPal Payment to “LWVFA Ed Fund.”
 (Please print clearly)

Name _____ Unit (if renewing) _____

Address _____

City _____ /State/ _____ Zip +4 _____

Phone (C) _____ (H) _____ E-mail _____

Please make checks payable to LWVFA. Mail to LWVFA, 4026-B Hummer Road, Annandale, VA 22003-2403
 OR Join online at <https://www.lwv-fairfax.org/join>

I am interested in becoming involved in (please indicate by circling the appropriate bullet(s)):

- Providing organization support (graphic design, website development/maintenance, fundraising/grant writing)
- Voter Services (e.g., voter registration drives, candidate forums, developing Voters’ Guides)
- Researching/writing about issues in which LWVFA has an interest (e.g., environment, firearms safety, mental health, schools, domestic violence, etc., or chairing an LWVFA study committee on voter turnout or human trafficking)
- Representing the League in governmental fora (e.g., serving as LWVFA representative on Fairfax County citizens’ committees and agencies, such as affordable housing, or Fairfax County Public Schools).

Other _____