

# **Registering Voters Under Virginia's Third Party Voter Registration Drives Legislation: Preliminary Report**

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**Background:** While there had been publicized problems with voter registration drives carried out in Virginia by out-of-state groups in the past, the most recent problems with third party voter registration drives in Virginia came to light during the summer of 2012, when the media reported on the actions of the Voter Participation Center. This nonpartisan progressive voter registration group used a vendor mailing list to send out voter registration forms that were pre-populated with some of the prospective registrant's information. Unfortunately, the mailing list included names of family pets and deceased family members. It was eventually determined that the problem was with the list and not a case of fraud or criminal activity. But this set the scene for reaction to another incident shortly thereafter, when a Harrisonburg store owner saw a man throw a trash bag into the store's recycling bin. Upon investigating, he discovered that the man had thrown away several completed voter registration forms. The man was a contractor with the Republican Party helping to register voters in Virginia. The contractor was charged with destruction of voter registration applications, disclosure of voter registration information, and obstruction of justice; the charges were later dropped.

**The Legislation:** As might be expected, in January 2013 a bill (SB1008, Stanley) was introduced in the Virginia Senate proposing some changes to the process of registering voters in hopes of avoiding a recurrence of such actions. The bill:

“Requires individuals and groups conducting voter registration drives, when obtaining 25 or more voter registration applications from the State Board of Elections or local offices, to register with the State Board or local offices, provide information as required by the State Board, receive training, and execute a sworn affidavit that they will abide by all Virginia voter registration laws and rules. The bill also prohibits pre-populating registration applications with information unless directed by the applicant to do so. Finally, the bill reduces the time limit for mailing or delivering such completed applications from 15 to 10 days.” (Virginia Legislative Service summary)

While LWV-VA members observing the Senate committee when the bill was introduced had questions about the bill and found it somewhat puzzling, we did not immediately react negatively for a variety of reasons, including: Leagues want their members who do voter registration to be trained; one can get any number of Virginia voter registration forms without going to the SBE or the local Registrar's office (libraries, online, government centers, etc.); and organizations that the LWV-VA works with in Richmond did not seem overly concerned. In fact, the support of some of these organizations for the legislation probably guaranteed its passage.

**LWV Concerns:** After discussing the bill with the LWVUS office staff, however, we became concerned that the legislation could result in a situation similar to that in Florida, where the implementation of its third party registration legislation proved so onerous that the LWV halted its voter registration activities in that state. We also believed that the inclusion of a required affidavit in the legislation could have a chilling effect on third party registration drives. Therefore, we decided to join Project Vote, with whom the LWV has worked on a variety of issues, in opposing the legislation because of the possibility of “another Florida” situation. After, the legislation was approved by the General Assembly and Governor, we kept in touch with the Virginia State Board of Elections (SBE) throughout the development of the implementing forms, training, regulations, etc. Both the LWV and Project Vote reviewed drafts of materials, communicated with SBE staff during their development, and made statements at SBE meetings. As could be expected because of the differences between the two organizations, our concerns were somewhat different. I believe that our organizations' oversight and suggested changes resulted in a better product and eased most of the LWV's fears. (When contacted by a U.S. Department of Justice (DOJ) attorney during this time, I explained the concerns that the LWV-VA had, but noted that I could not state that the legislation, in itself, had a discriminatory effect; I would pose no objection to its clearance. Project Vote continued to have objections to the legislation or the way it was being implemented. Of course, our comments became moot shortly afterwards with the Supreme Court's Voting Rights Act decision.)

**The League's Experience:** At the outset, it is important to note that we have no evidence that the legislation has, in itself, had a negative effect on our voter registration activities or that its effect has been discriminatory in

nature. No local League has reported this, and I can't recall seeing any news items in this regard on the VPAP VA News compilation. While the legislation may have had a chilling effect on some registration activities of other groups, our problems with the implementation have been due more to implementation delays in the roll-out of the new guidelines and online training module until the end of July and an unfamiliarity in using the new module. Several Leagues reported that they delayed the start-up of their registration activities and noted that other organizations did likewise.

The type of voter registration training used by local Leagues in Virginia this year divided almost equally among in-person, online, and a combination of the two. Two Leagues who participated in in-person training this year said that they would probably do online training next year. Each League was generally happy with the process that it used with one exception: the apparent lack of a system for producing training certificates for all persons who take in-person training. At least one local jurisdiction overcame this problem by requiring those who took in-person training to take the online quiz and request the online certificate as part of the training. As could be expected, all has not gone smoothly, and we are still involved in following up some problems.

The general response about the effect of the legislation and its implementation is that it had no negative effect, and in some ways was helpful. One League noted that they view the training requirement as akin to voter insurance; they wanted to be sure that no mistakes were made which would deprive a person of her right to vote. Most Leagues would seem to agree that the online training was "quick, user-friendly, good refresher course, should be required by all involved." It also proved to be an easy way to order registration forms if they were not otherwise readily available.

#### **Answers to Some League Questions:**

- While a training certificate is a nicety, it is not a necessity. Basically, it indicates that the person has taken training, been entered into the SBE "Certified Individuals and Organizations" data base, and can obtain more than 25 registration forms.
- A person gets on to the database and obtains a certificate by completing the training, and then completing the request and affidavit section of the training module.
- There is a separate link on the online training module for persons who are already on the database but need to obtain additional forms.
- The names on the database will expire on June 30, 2014, and a new database will be initiated. The LWV-VA will let local Leagues know of any significant changes that will be made in the process or timing. The need for a renewal might prove to be more of a necessity than a hindrance at that time, since the SBE plans to revise the voter registration form.

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