

**Delivering Election Materials  
by One Officer of Election  
Representing Both Major Parties**

November 1, 2023



★ VIRGINIA ★  
DEPARTMENT *of* ELECTIONS

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## Executive Summary

The Department of Elections (ELECT) submits this report to the Chair of Senate Committee on Privileges and Elections and the Patron of Senate Bill 1251 (SB 1251), pursuant to Rule 20 (o) of the Rules of the Senate of Virginia. This report outlines the feasibility of election materials and results being delivered to the clerk of courts by one officer of election representing each political party as proposed in the legislation.

### Key Takeaways

Most localities in Virginia do not consistently receive officer of election (OOE) nominations from each political party. Out of 87 responses to a survey of Virginia's election officials conducted by ELECT, only 5 respondents state their locality consistently receives OOE party nominations.

The lack of party nominations combined with the challenges of recruiting and retaining OOE's, and concerns regarding travel safety and logistics, presents significant roadblocks to effectively implementing SB 1251.

If equal party representation during the delivery of election results and materials to the clerk is the primary purpose of SB 1251, then the materials should be delivered by the local electoral board to accomplish this goal.

## Background

During the 2023 Session of the General Assembly, Senator David Marsden proposed SB 1251<sup>1</sup> which required ballots, election materials, and equipment keys to be returned to the clerk of the circuit court (“the clerk”) or the general registrar on the night of the election by one OOE representing each political party. However, due to concerns from local election officials regarding travel, safety, and the security of OOE’s at night, Senator Marsden introduced a substitute which required one OOE representing each political party to deliver the materials to the clerk during the timeframes already permitted in Virginia Code “whenever practical”.<sup>2</sup> Ultimately, the Senate Committee on Privileges and Elections recommended SB 1251 for a study.

OOEs (often referred to as “poll workers”) are qualified voters that help conduct an election.<sup>3</sup> OOE’s are made up of members of both major political parties, nominated by their local political parties, with no-more than one-third of appointed OOE’S representing no political party at all, if practicable. Additionally, 2023 Opinion by the Virginia Office of the Attorney General stated, “to the extent demographics or a lack of available party representatives [makes majority political party appointments] no longer "practicable" for any particular election in a jurisdiction, the Code expressly allows for the appointment of nonaffiliated election officers.”<sup>4</sup> Currently, a single OOE may return ballots, election materials, and equipment keys to the clerk or general registrar, and such items may be returned by noon on the day following the election unless the local electoral board requires they be returned on the night of the election.<sup>5</sup> All OOE’s are required to sign an oath stating they will perform their duties according to law and “studiously endeavor to prevent fraud, deceit, and abuse” prior to conducting an election.<sup>6</sup>

To accurately determine the feasibility of implementing SB 1251 as amended, it was essential for ELECT to obtain the perspectives of those responsible for administering elections. ELECT designed a survey (referred to as “OOE Survey” throughout this report) to solicit feedback from general registrars and local electoral board members. Responses from the survey are highlighted throughout this report.

## Survey of Election Officials

### Methodology

The OOE Survey distributed to general registrars and local electoral board members (referred to as “election officials” throughout this report) consisted of 16 questions, including both multiple choice and open-ended questions that covered following topics:

- Number of precincts and the average distance of precincts to the general registrar’s office and the clerk’s office in the locality;
- Consistency of party nominations;
- Number of OOE’s and any party affiliation;
- Method(s) the locality currently uses to deliver election materials and results;

<sup>1</sup> Senate Bill 1251 (<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=231&typ=bil&val=SB1251>)

<sup>2</sup> Senate Bill 1251 Substitute (<https://committees.lis.virginia.gov/forconsideration.aspx?ses=231&bil=SB1251&hou=S>)

<sup>3</sup> See the Code of Virginia § 24.2-115

<sup>4</sup> See the Code of Virginia § 24.2-115 and Op. Va. Att’y Gen. (October 2, 2023) [23-031 Opinion Letter](#)

<sup>5</sup> See the Code of Virginia § 24.2-668

<sup>6</sup> See the Code of Virginia § 24.2-611

- Potential fiscal impacts; and,
- Any additional comments or concerns.

ELECT sent a communication to the election officials of all 133 localities that included a brief explanation of and a link to the survey on September 8, 2023. The survey closed on September 15, 2023 giving localities a week to provide a response.

#### Sample Size

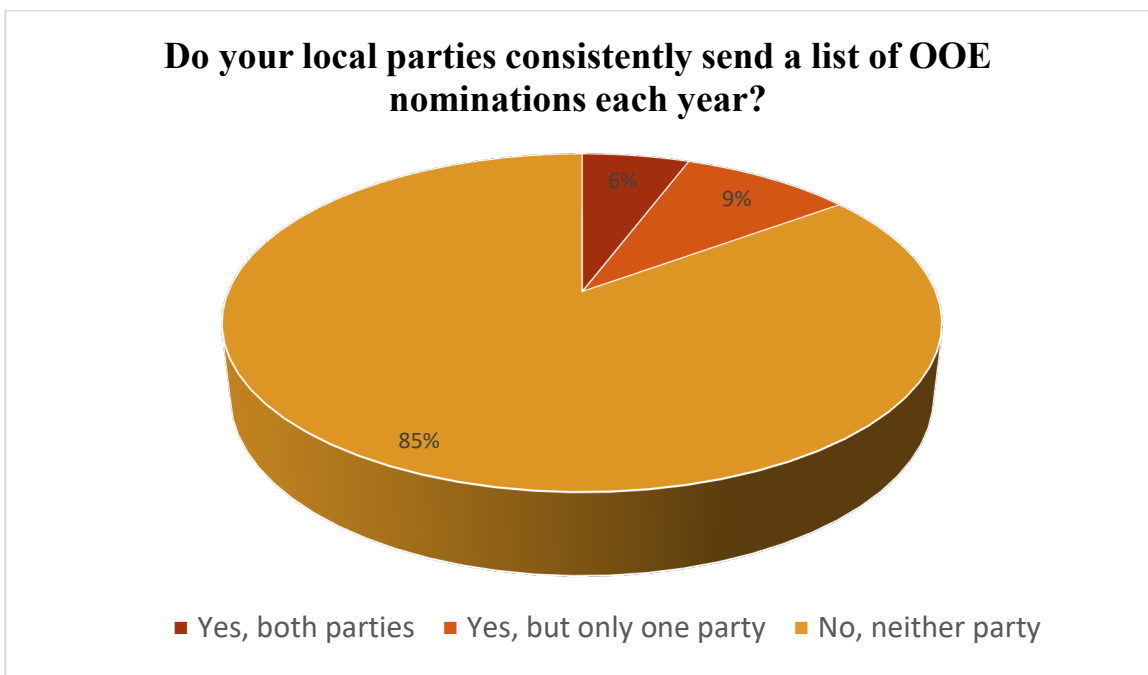
Participation in the OOE Survey was completely voluntary. Of the 133 localities surveyed, 84 localities responded with 3 localities providing input from both their general registrar and an electoral board member, totaling 87 responses. The responses ranged from election officials operating in small, medium, and large localities with the smallest number of precincts in a locality being 3, and the largest number of precincts in a locality being 108.

### OOE Recruitment & Retention Challenges

Many respondents to the OOE Survey mentioned challenges with recruiting and retaining OOE's. These challenges stem from inconsistent OOE nominations from political parties, the long hours required to serve as an OOE, and concerns regarding low compensation.

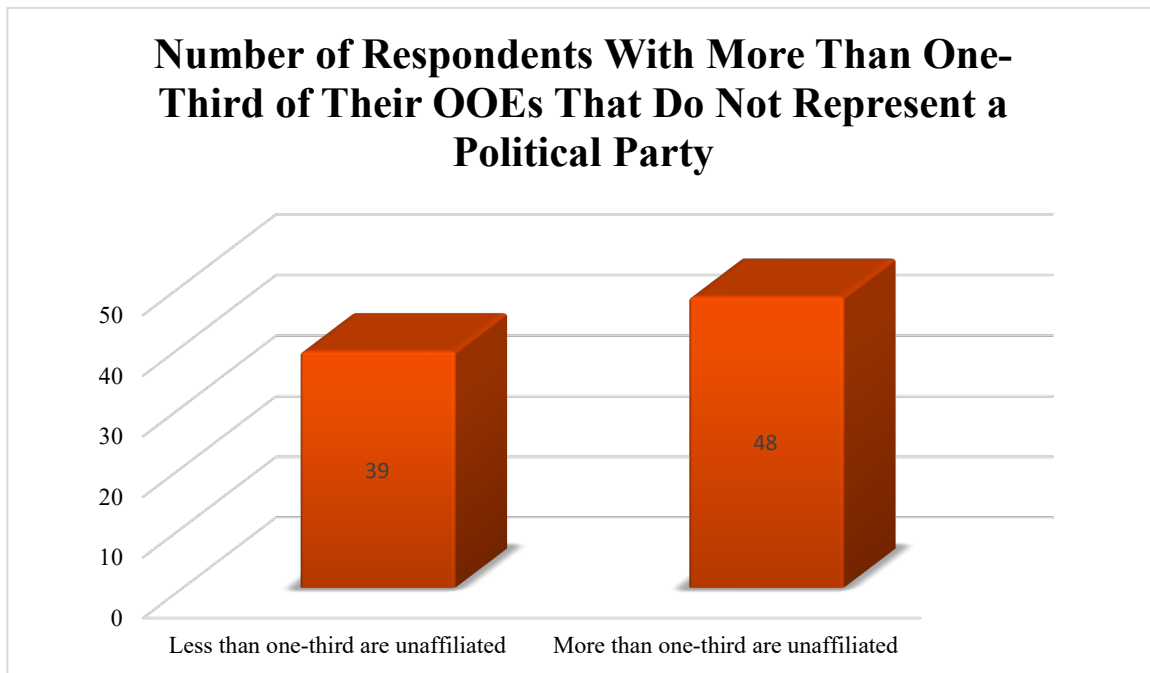
#### Appointing OOE's in Virginia

Generally, OOE's in Virginia are appointed from lists of nominations filed annually by political parties to the secretary of a locality's electoral board.<sup>7</sup> However, out of 87 responses to the OOE Survey, only 5 respondents stated they consistently receive OOE party nominations from both political parties in the Commonwealth. Conversely, 74 respondents stated neither political party consistently sends OOE nominations each year.



<sup>7</sup> See the Code of Virginia § 24.2-115

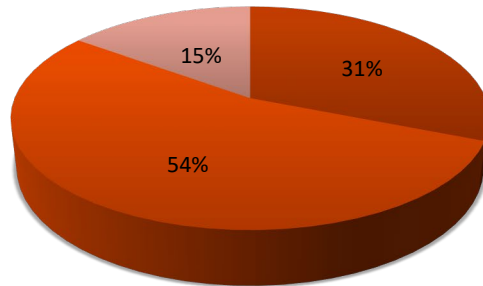
As a result of the lack of party nominations, some localities allow OOE's to "self-declare" their political party affiliation and many localities must use a significant number of non-party affiliated OOE's to meet staffing needs according to state law. If practicable, no more than one-third of the total number of OOE's appointed for each precinct can be used that do not represent a political party.<sup>8</sup> However, over half of the respondents stated more than one-third of their OOE's do not represent a political party. Without the significant use of OOE's that do not represent a political party, localities would not have enough OOE's to staff their precincts and effectively assist voters.



<sup>8</sup> See the Code of Virginia § 24.2-115

Additionally, each precinct in a locality is required to have a Chief OOE and an Assistant Chief OOE. The OOE designated as the Assistant Chief cannot represent the same political party as the Chief OOE for the precinct, whenever practical.<sup>9</sup> However, only 31% of respondents stated their locality is able to have a Chief and Assistant Chief of different political parties for all precincts.

### Do Your Chiefs and Assistant Chiefs for Your Precinct(s) Represent Different Political Parties?



- Yes, for all precincts
- Yes, "when practicable", but not for all
- No, I am rarely able to have a Chief and Assistant Chief represent different political parties for my precincts

## Nationwide Recruitment Challenges

The recruitment and retention of OOE is a nationwide challenge. The Election Assistance Commission's (EAC) 2022 report to Congress found that a majority of election officials across the 50 U.S. states, five territories, and the District of Columbia, reported difficulty recruiting poll workers since 2018.<sup>10</sup> Only one-quarter of the jurisdictions that responded indicated that poll worker recruitment is somewhat or very easy.<sup>11</sup> Even after the recruitment and training of poll workers, many jurisdictions see nearly 30% of OOE's cancelling their plans to work on Election Day causing jurisdictions to over-hire poll workers to ensure adequate staffing.<sup>12</sup>

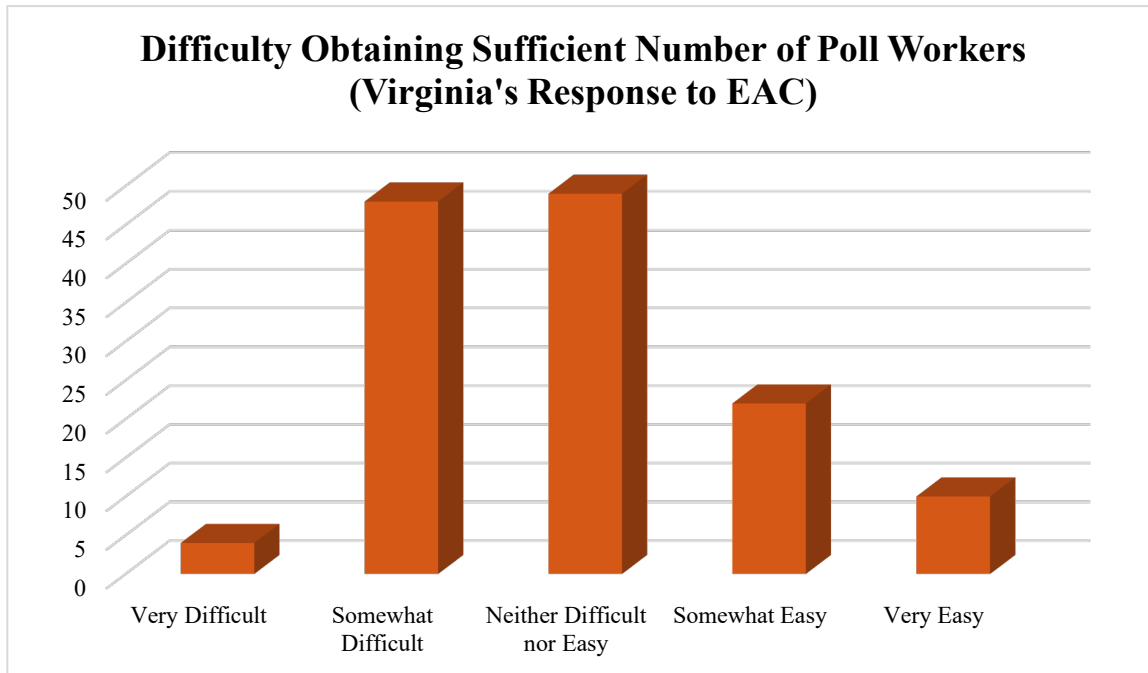
<sup>9</sup> See the Code of Virginia § 24.2-115

<sup>10</sup> EAC, Election Administration and Voting Survey 2022 Comprehensive Report ([https://www.eac.gov/sites/default/files/2023-06/2022\\_EAVS\\_Report\\_508c.pdf](https://www.eac.gov/sites/default/files/2023-06/2022_EAVS_Report_508c.pdf))

<sup>11</sup> EAC, Election Administration and Voting Survey 2022 Comprehensive Report ([https://www.eac.gov/sites/default/files/2023-06/2022\\_EAVS\\_Report\\_508c.pdf](https://www.eac.gov/sites/default/files/2023-06/2022_EAVS_Report_508c.pdf))

<sup>12</sup> National Conference of State Legislators (NCSL), Finding – and Keeping – Qualified Poll workers (<https://www.ncsl.org/elections-and-campaigns/finding-and-keeping-qualified-poll-workers>)

Virginia's response to the EAC's survey regarding poll worker recruitment difficulty can be seen in the graph below.



### Cost Increase to Use and Retain OOE's for Election Material Delivery

On average, OOE's make approximately \$150 for working on Election Day although this number can change based on the size of the locality. Additionally, some localities offer additional pay for OOE's that deliver election materials and results.

84% of respondents to the OOE Survey stated their locality would incur additional costs to have two OOE's deliver election materials and results. The reasons for the increased costs include the following:

- Costs to pay OOE's to work the day after the election in general;
- Costs to pay more OOE's specifically for the delivery of election materials and results;
- Costs to train more OOE's in order to have sufficient backups; and
- Costs for mileage reimbursement.

In open-ended responses, some election officials stated that the additional responsibilities would require their locality to increase OOE pay in general to incentivize retention. Those costs to pay OOE's to deliver election materials and results can vary significantly across localities in Virginia.

One the reason for the differences in cost is many localities use general registrars or local electoral board members to deliver election materials to the clerk instead of OOE's. As stated previously, election materials may be returned on the day following the election unless the local electoral board requires that they be returned on the night of the election.<sup>13</sup> Only 10% of

<sup>13</sup> See the Code of Virginia § 24.2-668



respondents stated they use an OOE to deliver all election materials to the clerk on Election Night. The remaining respondents stated an OOE from each precinct brings election materials to the general registrar's office or a secure warehouse on Election Night. However, one respondent stated they permit their OOE's to deliver the election materials from two precincts the day following the election as the precincts are greater than 25 miles away from the general registrar's office. Almost all respondents stated OOE's use their personal vehicles for the delivery of materials.

Once the election materials are with the general registrar, respondents stated the general registrar or the local electoral board members ultimately deliver the election results to the clerk. Some respondents also obtain assistance from other local government offices to transport election materials in the registrar's possession such as their local Sheriff's Department, staff from the County General Services Department, sworn county maintenance staff, and Department of Works staff (all under the supervision of the general registrar and local electoral board members). Therefore, these localities would have to pay for two OOE's to return to the general registrar's office to deliver materials to the clerk as OOE's are not traditionally used past Election Night.

Some of the respondents stated their OOE's are offered additional pay for the extra responsibility of delivering election materials. This pay doubles if localities are required to have two officers from each precinct deliver materials and could become costly, especially in localities with a large number of precincts.

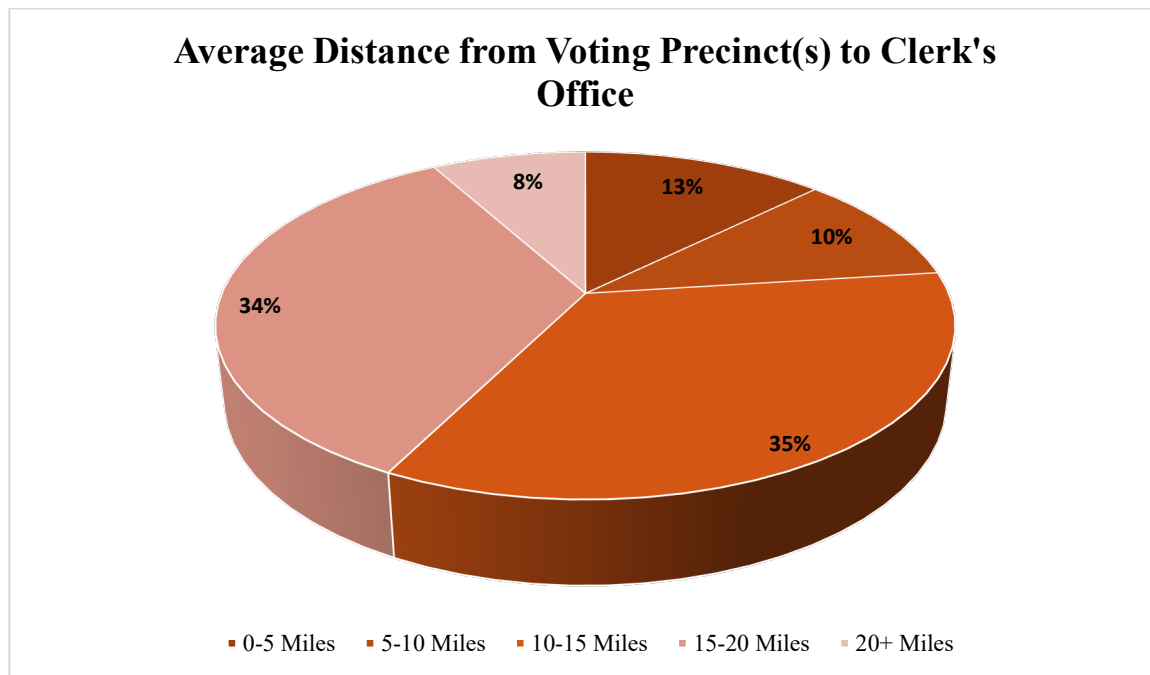
As it pertains to costs and OOE recruitment and retention, one general registrar's open-ended response echoes and summarizes the comments provided by other OOE Survey respondents:

*“[t]he cost is one thing, but you should also take into consideration that we just don't have people knocking on our door wanting to be an Officer of Election. We typically have 1 or 2 new candidates each year but once they work an election and realize how long of a day it is and all that is involved, they usually do not come back. I hold my breath every election that my seasoned OOE's don't get sick or have an emergency. I don't know where we would get the additional OOE's.”*

## Logistical & Safety Concerns

On Election Day, OOE's work on average from 5 a.m. until 10 p.m. At the end of a 17+ hour workday, many respondents expressed concerns regarding requiring two OOE's to deliver election results and materials on Election Night as initially proposed in SB 1251.

42% of respondents to the OOE Survey stated their precincts are 15 miles or more from the clerk's office, and 77% of respondents stated their precincts are 10 miles or more.



In rural areas, it can take an OOE up to 45 minutes traveling one-way to deliver election materials. Respondents stated their OOE's may have to drive on winding dark roads through mountains. OOE's in Accomack have to take a ferry from their precinct to reach the clerk's office. If one OOE is designated to deliver election materials as currently permitted<sup>14</sup>, then election officials can select an OOE that does not have to travel extremely far distances to return home safely. Respondents also expressed concerns regarding liability and insurance requirements in case there is an accident.

OOE's primarily use their own personal vehicles to deliver election materials and results from a precinct. If two OOE's are required to deliver the materials, this also presents logistical questions such as:

- Whose vehicle should be used? (Assuming both OOE's are riding together)
- If OOE's are permitted to ride separately, how it is determined what materials are placed in which vehicle?
- If OOE's are permitted to ride separately, is there a designated route that must be used?
- Will the driver of the vehicle be responsible for taking the other OOE back to their car?

<sup>14</sup> See the Code of Virginia §§ 24.2-659 and 24.2-668

If a locality allows its OOE's to deliver the election results to the clerk by noon the day following the election instead of Election Night, the OOE's are subject to safer driving conditions. However, the logistical concerns are still applicable once the OOE's meet to collect the materials from the general registrar's office or the other authorized secure location. Some respondents stated it would be difficult to convince two OOE's to return to the general registrar's office or the secure warehouse where the materials are stored the day after the election.

## Conclusion

The ability for localities to only require one OOE of each political party to deliver election materials and results "whenever practical" as amended in SB 1251, significantly reduces safety concerns for OOE's traveling on the night of the election after a 17+ hour workday. However, the lack of consistent OOE nominations from political parties and the unavoidable use of non-party affiliated OOE's would make implementation of SB 1251 difficult.

Additionally, most respondents to the OOE Survey stated they do not use OOE's to return election materials directly to the clerk, as this is primarily managed by the general registrar or local electoral board. Therefore, the use of OOE's would require most localities to incur additional costs, which can double for the localities that pay an additional stipend specifically for the delivery of materials. If there are localities that have enough party-nominated OOE's in which it would be "practical" to use one OOE from each political party to deliver election materials, there are still logistical concerns that would have to be addressed.

Ultimately, OOE recruitment and retention is the largest concern for election officials and it is heavily dependent on the parties that nominate them. Most of the respondents that stated their local electoral board delivers the election materials indicated that one member from each party is used. If equal party representation during the delivery of election results and materials to the clerk is the primary purpose of SB 1251, then the materials should be delivered by the local electoral board to accomplish this goal.